

ELECTIONS

CHAPTER 157

H. B. No. 585
(Brown, Jungroth)

SEPTEMBER PRIMARY ELECTION

AN ACT

To amend and reenact sections 16-04-01, 16-04-11, 16-06-04, *16-05-03, *16-05-04, *16-05-05, 16-13-15, 16-13-20, 16-13-36, 16-17-01, 16-17-10, 16-17-16, and 16-17-17 of the North Dakota Century Code, relating to the date of the primary election, time of notice to county auditors, county party committee organization meetings, state central committee meetings, precinct committeemen meetings, and party conventions, and declaring legislative intent.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Legislative Intent.) It is hereby declared to be the intention of the legislative assembly in changing the date of the primary election from the last Tuesday in June to the first Tuesday in September that by such change the cost to the individual candidate and party organizations of the conduct of campaigns, the time required away from the usual vocation of the individual candidate, and the imposition of campaign material upon the public through audio and visual media will all be reduced, to the benefit of all citizens, parties, and the state.

§ 2. Amendment.) Section 16-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

****16-04-01. Primary Election — When Held — Nomination of Candidates — Nomination for Special Elections.)** On the first Tuesday in September of every year in which a general election occurs, there shall be held in the various voting precincts of this state, in lieu of party caucuses and conventions, a primary election for the nomination of candidates for the following offices to be voted for at the ensuing general elec-

***Note:** Sections 16-05-03, 16-05-04, and 16-05-05 referred to in the title of chapter 157 were deleted from House Bill No. 585 by amendment during the legislative session. The designation of such sections in the title, therefore, appears to be in error.

****Note:** This section was also amended by section 8, chapter 225, 1965 S.L.

tion: representatives in Congress, state officers, county officers, district assessors, and the following officers on the years of their regular election: judges of the supreme court and district court, members of the legislative assembly, county commissioners, and United States senators. In special elections the nominations for the officers enumerated in this section shall be made as provided in this title.

§ 3. **Amendment.)** Section 16-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-11. Secretary of State to Give Notice to County Auditor of Officers To Be Nominated.) Between the first day of June and the first day of July in each primary election year, the secretary of state shall direct and cause to be delivered to the county auditor of each county a notice specifying the several officers to be nominated in such county at the next primary election. The county auditor to whom such notice is delivered shall cause notice of the same to be given as is provided in section 16-06-02.

§ 4. **Amendment.)** Section 16-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-06-04. Secretary of State to Give Notice to County Auditor of Officers To Be Elected.) Between the first day of October and the first day of November in each general election year, the secretary of state shall direct and cause to be delivered to the county auditor of each county a notice specifying each officer to be chosen at the next general election. The county auditor to whom such notice is delivered shall cause notice of the same to be given as is provided in section 16-06-02.

§ 5. **Amendment.)** Section 16-13-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-15. Time of County Canvassing Board Meeting—Oath Required.) As soon as the returns are received by the county auditor, but not later than five days after each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass such returns.

§ 6. **Amendment.)** Section 16-13-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-20. County Auditor to Transmit Abstract of Votes to Secretary of State After Primary Election.) Except as other-

wise provided in section 16-13-22, the county auditor of each county, under his official seal, shall return to the secretary of state by registered or certified mail within eight days after the day of any primary election, a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in his county and the votes cast for every candidate for nomination for United States senator, United States representative, state officers, judges of the supreme court, judges of the district court, and members of the legislative assembly. The county auditor also shall file with the secretary of state a certificate showing the names and addresses of the persons nominated under the several political designations and principles in his county.

§ 7. Amendment.) Section 16-13-36 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-13-36. Meeting of State Board of Canvassers.) On call of the secretary of state but not later than fourteen days next following a primary, general or special election, the state board of canvassers shall meet at the office of the secretary of state for the purpose of canvassing and ascertaining the result of the election. The secretary of state shall notify the other members of the board of such meeting.

§ 8. Amendment.) Section 16-17-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-01. Election of Precinct Committeemen.) At the party primary election commencing with the year 1966, and each fourth year thereafter, there shall be elected as hereinafter provided by the qualified electors of each political party from each voting precinct, committeemen to represent such political party.

§ 9. Amendment.) Section 16-17-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-10. Meeting of County Committee — Organization.) The county committee of each party shall meet at a place designated by the county auditor at the county seat at any hour between the hours of two o'clock p.m. and eight o'clock p.m. on the third Monday in September following the primary election. The exact hour shall be set by the existing county committee chairman. The county committee shall organize by:

1. Selecting a chairman, a vice chairman, a secretary, and a treasurer;
2. Adopting rules and modes of procedure not in conflict with law; and
3. Selecting an executive committee consisting of from five to eleven persons chosen from the county committee. The chairman and secretary of the county committee shall be members of the executive committee.

In counties having more than one legislative district, each legislative district is entitled to representation on the county executive committee apportioned in the ratio which the number of precinct committeemen each legislative district may have bears to the total number of precinct committeemen in the county, and shall be selected by the precinct committeemen from each legislative district meeting separately.

§ 10. **Amendment.)** Section 16-17-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-16. Meeting of Precinct Committeemen of County to Elect Delegates to State Party Convention—Proxies.) Prior to the second Monday in June in each presidential election year upon the call of the chairman, the precinct committeemen of each county shall meet at the county seat to elect delegates to a state party convention to be held as provided in this chapter. One delegate shall be elected for each three hundred votes or majority fraction thereof cast in such county at the last preceding presidential election for the candidates for presidential electors of such party, but every county shall be entitled to at least one delegate. Delegates shall be electors of their county. If any delegate shall be unable to attend such convention, he shall designate in writing an alternate to attend and represent and act for him. In counties having more than one legislative district, the precinct committeemen from each legislative district, meeting separately, shall elect delegates to the state party convention. One delegate shall be elected for each three hundred votes, or major fraction thereof, cast in said legislative district at the last preceding presidential election for the candidates for presidential electors of such party, but each legislative district shall be entitled to at least one delegate.

§ 11. **Amendment.)** Section 16-17-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-17-17. When State Party Convention Held.) The state party conventions shall be held in each presidential year prior

to the fifteenth day of July of such year at such place and at such time as shall be designated by the party state central committee.

Approved March 19, 1965.

CHAPTER 158

S. B. No. 100
(Lips, Urdahl)

BALLOT ARRANGEMENT

AN ACT

To amend and reenact section 16-04-17 of the North Dakota Century Code, relating to the arrangement of names on ballots and voting machines.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 16-04-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-17. Arrangement of Names on Ballots, and Voting Machines.) Upon sample ballots, the names of candidates for each office shall be arranged alphabetically according to surnames. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing, in the following manner: the forms shall be set up with the names in the order in which they are placed upon the sample ballots prepared by the secretary of state for the state and district offices, and by the county auditor for the county offices. In printing each set of official ballots for the various election precincts, the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are most names. The same number of ballots shall be printed after each change. In making the changes of position, the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the columns so that the name that was second before the change shall be first after the change.

In municipalities or political subdivisions employing voting machines the position of names which require alternating or rotating as hereinbefore provided shall be rotated on the voting machines by precincts so that the name appearing first in

one precinct will be last in the next precinct, and the name that appeared second shall be first in the next precinct and so on until each name has been moved up or over one space accordingly. This process shall be continued from one precinct to another and for as many names as are involved.

Approved February 26, 1965.

CHAPTER 159

H. B. No. 576
(Rustan, Stockman)

VOTING BY NEW RESIDENTS

AN ACT

To create and enact sections 16-16-17, 16-16-18, 16-16-19, 16-16-20, 16-16-21, 16-16-22, 16-16-23, 16-16-24, 16-16-25, 16-16-26, and 16-16-27 of the North Dakota Century Code, to provide for voting by new residents in presidential elections, providing a penalty and for its referral to the electorate and providing an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. New Sections.) Sections 16-16-17, 16-16-18, 16-16-19, 16-16-20, 16-16-21, 16-16-22, 16-16-23, 16-16-24, 16-16-25, 16-16-26, and 16-16-27 of the North Dakota Century Code are hereby created and enacted to read as follows:

16-16-17. Eligibility of New Residents to Vote.) Each citizen of the United States who, immediately prior to his removal to this state, was a citizen of another state and who has been a resident of this state for less than one year prior to a presidential election is entitled to vote for presidential and vice-presidential electors at that election, but for no other offices, if

1. He otherwise possesses the substantive qualifications to vote in this state, except requirement of residence, and
2. He complies with the provisions of sections 16-16-17 to 16-16-27, both inclusive.

16-16-18. Application for Presidential Ballot by New Residents.) A person desiring to qualify to vote for presidential and vice-presidential electors is not required to register but, not less than ten days in advance of the election, shall make an application in the form of an affidavit executed in duplicate in the presence of the county auditor substantially as follows:

State of North Dakota }
 County of..... } ss.

I,....., do solemnly swear that:

1. I am a citizen of the United States.

2. Before becoming a resident of this state, I resided at.....street, in the (town) (township) (village) (city) of....., county of..... in the state of.....

3. On the day of the next presidential election, I shall be at least twenty-one years of age. I have been a resident of this state since the.....day of....., 19....., now residing at.....street, in the (town) (township) (village) (city) of....., county of.....in the state of North Dakota.

4. I have resided in North Dakota for less than one year. I believe I am entitled under the laws of this state to vote at the presidential election to be held on theday of November, 19.....

5. I hereby make application for a presidential and vice-presidential ballot. I have not voted and will not vote otherwise than by this ballot at that election.

Signed.....
 (Applicant)

Subscribed and sworn to before me this.....day of....., 19.....

Signed.....
 (Title and name of officer authorized to administer oaths)

16-16-19. Mailing Duplicate Application.) The county auditor shall immediately mail to the appropriate official of the state in which the applicant last resided the duplicate of the application.

16-16-20. Filing and Indexing Information from Other States.) The county auditor shall file each duplicate application or other official information received by him from another state indicating that a former resident of this state has made application to vote at a presidential election in another state and shall maintain an alphabetical index thereof, for a period of four months after the election.

16-16-21. Delivery of Ballot to Applicant.) If satisfied that the application is proper and that the applicant is qualified to

vote at the presidential election, the county auditor shall deliver to the applicant a ballot for presidential and vice-presidential electors not sooner than thirty days nor later than one day prior to the next presidential election.

16-16-22. Voting by New Residents.) 1. The applicant, upon receiving the ballot for presidential and vice-presidential electors shall mark forthwith the ballot in the presence of the county auditor but in a manner that the official cannot know how the ballot is marked. He shall then fold the ballot in the county auditor's presence so as to conceal the markings, and deposit and seal it in an envelope furnished by the county auditor.

2. The voter shall enclose the envelope containing the ballot in a carrier envelope which shall be securely sealed. There shall be imprinted on the outside of the carrier envelope a statement substantially as follows:

Certification of New Resident Voter

I have qualified as a new resident voter in this state to vote for presidential and vice-presidential electors. I have not applied nor do I intend to apply for an absentee voter's ballot from the state from which I have removed. I have not voted and I will not vote otherwise than by this ballot.

Dated.....
Witness..... (County Auditor) (Signature of Voter)

The voter shall sign the certification upon the carrier envelope as set forth above, and shall then deliver the sealed carrier envelope to the county auditor, who shall keep the carrier envelope in his office until delivered by him to the inspector of elections of the precinct in which the applicant resides.

16-16-23. List of Applicants Open for Public Inspection.) The county auditor shall keep open to public inspection a list of all persons who have applied to vote as new residents with their names, addresses and application dates.

16-16-24. Delivery and Deposit of Ballots.) 1. The county auditors shall prepare and deliver the ballots for new residents to the inspectors of elections in the manner prescribed by law for absentee ballots. The ballots shall be processed in accordance therewith.

2. The inspector of elections shall record the new resident voter's name with a notation designating him as a new resident voting for presidential and vice-presidential electors only.

16-16-25. Penalties.) Any person willfully making a false statement of affidavit in qualifying to vote as a new resident in a presidential election shall be guilty of a misdemeanor. Any public official who willfully refuses or neglects to perform any of the duties prescribed by this chapter or who violates any of its provisions shall be guilty of a misdemeanor.

16-16-26. Application of Other Statutes.) Except as provided in this chapter, the provisions of law relating to absentee ballots apply also to the casting and counting of ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

16-16-27. Definition of State.) As used in this chapter "state" includes the District of Columbia.

***§ 2. Referral to Electorate—Effective Date.)** Pursuant to section 122 of the Constitution of North Dakota, the secretary of state shall place this Act upon the ballot for the approval or disapproval of the electors of this state at the general election in 1966, and such Act if approved shall become effective thirty days after such election.

Approved March 8, 1965.

*Note: See chapter 487, 1965 S.L.

CHAPTER 160

H. B. No. 654

(Wagner, Jungroth, Meschke, Brown)

ABSENT VOTERS' BALLOTS

AN ACT

To amend and reenact sections 15-47-06, 16-18-01, 16-18-02, 16-18-03, 16-18-04, 16-18-05, 16-18-06, 16-18-07, 16-18-09, 16-18-11, 16-18-12, 16-18-13, 16-18-14, 16-18-15, 16-18-16, 16-18-19, and 40-21-13 of the North Dakota Century Code, relating to the use of absent voters' ballots in general, primary, and special state elections and in city, village, and school elections and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 15-47-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-06. Election Procedure in All School Districts—Canvass of Boards—Tie Vote—Absent Voters.) An election in a public school district, except as otherwise provided in this title, shall be conducted and the votes shall be canvassed in the manner provided by the laws of this state for the election of county officers. Immediately after the polls are closed, the judges shall proceed to count and canvass the votes for each office and the person receiving the highest number of votes for an office shall be declared elected. If the election results in a tie, the clerk of the district immediately, and in writing, shall notify the candidates between whom the tie exists, and within three days after the election, and at a time agreed upon by said candidates, the election shall be decided in the presence of the judges and clerks of election in a manner agreed upon by said candidates. A record of the proceedings shall be made in the records of the clerk of the district. Returns shall be made to the school board showing the number of votes cast for each person for any office, and such returns shall be signed by the judges and clerks of election and filed with the clerk of the district within two days thereafter. The school board shall canvass all election returns and shall declare the result of any election within three days thereafter, and the result of the election shall be entered upon the records of the board. The person receiving the highest number of votes for each office in the district shall be declared elected. Absent voters' ballots may be used in any school district election in accordance with the provisions of chapter 16-18.

§ 2. Amendment.) Section 16-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-01. Absent Voter—Who May Vote.) Any qualified elector of this state, who is absent from the county in which he is an elector, or who by reason of physical disability, or who is in the military or naval service or the merchant marine of the United States of America, and, is unable to attend at the polling place in his precinct to vote at any general, special or primary state election, or at any city, village, or school election, may vote an absent voters' ballot at any such election as hereinafter provided.

Whenever the words "In the military or naval service or the merchant marine of the United States" or "In the armed forces" or "In the military service" are used in this chapter, they shall include the following:

- (1) Members of the armed forces while in the active service and their spouses and dependents.

- (2) Members of the merchant marine of the United States, and their spouses and dependents.
- (3) Civilian employees of the United States in all categories serving outside the territorial limits of the several states of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil service laws and the United States Classification Act of 1949, and whether or not paid from funds appropriated by the Congress.
- (4) Members of religious groups or welfare agencies assisting members of the armed forces, who are officially attached to and serving with the armed forces, and their spouses and dependents.

§ 3. **Amendment.)** Section 16-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-02. Elector May Vote Before Leaving County—Returning to County Before Election—Voting in Person.) Any qualified elector of this state who is present in his county after the official voters' ballots of such county or any city, village, or school district within such county have been printed, and who has reason to believe that he will be absent from such county on election day as provided in section 16-18-01, as it may be amended, may vote before he leaves his county in the same manner as an absent voter. Any elector having marked his absent voters' ballot under the provisions of this section who shall return to his precinct before or on election day may vote in person if his ballot has not been deposited in the ballot box.

§ 4. **Amendment.)** Section 16-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-03. Preparation and Printing of Ballots.) For all general, primary, or special state elections, for all other special elections when such special elections for state and county offices are held at the same time as a general or primary election, and for all city, village, and school elections, there shall be prepared or printed for each precinct official ballots to be known as absent voters' ballots. Such ballots shall be prepared or printed in the same form and shall be of the same size, color, and texture as the regular official ballots.

§ 5. **Amendment.)** Section 16-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-04. When Ballots Furnished Proper Officials.) It shall be the duty of the secretary of state, county auditor, or any other officer by law required to prepare any general, special, or primary state election ballots, to prepare and have printed and delivered to the county auditor at least twenty days prior to the holding of any general, special, or primary state election, a sufficient number of absent voter ballots provided for by law for the use of all voters likely to be absent from such county on the day of such election. In city, village, or school elections it shall be the duty of the auditor or clerk of the city or village, the clerk of the school district, or any other officer by law required to prepare any city, village, or school election ballots, to prepare or have printed and available for distribution to the public at least fourteen days prior to the holding of any city, village, or school election, a sufficient number of absent voter ballots provided for by law for the use of all voters likely to be absent on the day of such election from the county within which such city, village, or school district is situated.

§ 6. Amendment.) Section 16-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-05. Time for Making Application for Ballot.) At any time within thirty days next preceding such election, any voter expecting to be absent on the day of election from the county in which his voting precinct is situated, or who by reason of physical disability, or who is in the military or naval service or the merchant marine of the United States of America and, is unable to attend at the polling place in his precinct to vote at such election, may make application to the county auditor of the county, the auditor or clerk of the city or village or the clerk of the school district, as the case may be, for an official absent voters' ballot to be voted at such election.

§ 7. Amendment.) Section 16-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-06. Application Form.) Application for such ballot shall be made on a blank to be furnished by the proper officer of the county, city, village, or school district of which the applicant is an elector and must be substantially in the following form:

I, _____, a duly qualified elector of the township of _____ or of the village of _____ or of the _____ precinct of the _____ ward of the city of _____

..... of the county of of
 the state of North Dakota, to my best knowledge and
 belief entitled to vote in such precinct at the next
 election, expecting to be absent from said county on the
 day for holding such election, or by reason of physical
 disability being unable to attend and vote at such
 election, hereby make application for an official absent
 voter's ballot to be voted by me at such election.

Date Signed
 Post office

Provided, that if the application be made for a primary
 election ballot such application shall also give the name of the
 political party with which the applicant is affiliated.

Provided that when such application is made upon the
 ground of physical disability it shall be accompanied by the
 certificate of the superintendent of a hospital in which the
 applicant is actually confined or by the certificate of a
 licensed physician who is attending said applicant to the effect
 that said applicant is under such physical disability by reason
 whereof he is confined to such hospital or other place of
 confinement (stating location thereof) and is unable to attend
 and vote at such election.

Provided that qualified electors in the military or naval
 service or the merchant marine of the United States of
 America shall not be required to file any formal application
 for an absent voter's ballot for any general or primary election
 but each county auditor of each county in the state of North
 Dakota shall upon receiving any information whether in
 writing or otherwise as to the mailing address of any qualified
 elector in the military or naval service or the merchant
 marine of the United States immediately upon receiving the
 ballots from the printers, mail to such electors a ballot together
 with proper return envelope and instructions for voting.

§ 8. Amendment.) Section 16-18-07 of the North Dakota
 Century Code is hereby amended and reenacted to read as
 follows:

16-18-07. Delivering Application Blank for Ballot.) The
 officers specified in section 16-18-05, upon request, shall send
 an application blank for an absent voters' ballot to an absent
 voter by mail, or they may deliver such application blank to
 such voter upon a personal application made at his office.

§ 9. Amendment.) Section 16-18-09 of the North Dakota
 Century Code is hereby amended and reenacted to read as
 follows:

16-18-09. Delivering Ballots — Envelope Accompanying — Affidavit on Envelope — Inability of Elector to Sign Name.)

Upon receipt of an application for an absent voters' ballot properly filled out and duly signed, or as soon thereafter as the official absent voters' ballot for the precinct in which the applicant resides has been prepared or printed, the county auditor, auditor, or clerk of the city or village, or clerk of the school district, as the case may be, shall send to such absent voter by mail, postage prepaid, one official absent voters' ballot. If there is more than one absent voters' ballot to be voted by an elector of such precinct, one of each kind shall be sent and an envelope shall be enclosed with such ballot or ballots. Such envelope shall bear upon the front thereof the name, official title, and post office address of the officer supplying the voter with the absent voter's ballot, and upon the other side, a printed affidavit in substantially the following form:

State of..... }
County of..... } ss.

I,, do solemnly swear that I am a resident of the township of, or the village of, or of the precinct of the ward in the city of, residing at in said city, county of and state of North Dakota, and entitled to vote in such precinct at the next election; that I expect to be absent from the said county of my residence on the day of holding such election, or that by reason of physical disability I am unable to attend at the polling place for such election, and that I will have no opportunity to vote in person on that day.

.....
Subscribed and sworn to before me this..... day of..... 19.....; and I hereby certify that the affiant exhibited the enclosed ballots to me unmarked, that he then, in my presence and in the presence of no other person, and in such manner that I could not see his vote, marked such ballot, and enclosed and sealed the same in this envelope. That the affiant was not solicited or advised by me to vote for or against any candidate or measure.

.....
.....
If such absent voter is unable to sign his name, he shall make his mark (X) and the officer taking such affidavit shall sign

such voter's name, and shall state in his certificate the reason for such signature.

§ 10. **Amendment.)** Section 16-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-11. Absent Voters' Ballots Sent to Military Personnel Without Application.) It shall be the duty of the officers specified in section 16-18-05, as soon as possible after the printing of the ballots for any primary, special, or general state election or any city, village, or school election to send such absent voter ballot to all military personnel on active duty when requested in the manner provided in section 16-18-09.

§ 11. **Amendment.)** Section 16-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-12. County Auditor to Keep Register of Names of Persons in Service and All Other Qualified Electors.) In order to facilitate compliance with the provisions of section 16-18-11, the county auditor of each county in this state shall prepare, keep, and maintain a general register of the names of all persons within his county who are engaged in the military or naval service of the United States, and a further register of all such persons who are qualified to vote in his county at a general election.

§ 12. **Amendment.)** Section 16-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-13. Marking and Return of Ballots.) The affidavit provided for in section 16-18-09 may be made by such elector before any commissioned officer in the active service of the armed forces of the United States and any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce of the United States to administer and attest such oaths as are required by the laws of this state. Such affidavit need not have any venue. A person in the military or naval service shall mark the ballot in the presence of such officer, and no other person, in the manner provided in section 16-18-10 and shall be returned in accordance with the provisions of section 16-18-10.

§ 13. **Amendment.)** Section 16-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-14. Canvassing of Absent Voters' Ballots of Soldiers and Sailors.) The county auditor, auditor or clerk of the city

or village, or clerk of the school district, as the case may be, upon receipt of an envelope containing an absent voters' ballot of a person engaged in the military or naval service of the United States shall proceed in the manner as provided in section 16-18-15. If any such envelope is received by the proper officer too late to be forwarded to the proper voting precinct in time to be canvassed, the same shall be retained by him and canvassed by the canvassing board of the county of such officer at any time prior to the meeting of the state canvassing board or any adjourned meeting of said board where the same has been received by such officer in time to canvass and transmit the results to the state canvassing board. In all other respects such absent voter ballots of electors engaged in the military service or merchant marine of the United States shall be treated in the same manner as now provided for the absent voter ballots.

§ 14. Amendment.) Section 16-18-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-15. Care and Custody of Ballot.) Upon receipt of the envelope containing the absent voters' ballot, the proper officer forthwith shall enclose the same, unopened, together with the written application of such absent voter, in a larger envelope which shall be sealed securely and shall be endorsed with the name of the proper voting precinct, the name and official title of such officer, and the words "This envelope contains an absent voters' ballot and must be opened only on election day at the polls while the same are open." Such officer shall keep the envelope safely in his office until it is delivered by him as provided in this chapter.

§ 15. Amendment.) Section 16-18-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-16. Submitting Ballot to Inspector of Elections.) If the envelope containing the absent voters' ballot is received by the county auditor, auditor or clerk of the city or village, or clerk of the school district, as the case may be, prior to his delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16-18-15, shall be enclosed in such package and delivered therewith to the inspector of such precinct. If the official ballots for such precinct shall have been delivered to such inspector of elections at the time of the receipt by the proper officer of such absent voters' ballot, then such officer forthwith

shall mail the same postage prepaid to such inspector of elections or otherwise shall deliver it to such inspector.

§ 16. Amendment.) Section 16-18-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-19. Penalty for Violation of Chapter.) If the secretary of state, county auditor, auditor or clerk of any city or village, clerk of a school district, or any election officer shall refuse or neglect to perform any of the duties prescribed in this chapter or shall violate any of the provisions thereof, or if any officer taking any affidavit provided for in this chapter shall make any false statement in his certificate attached thereto, such officer shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

§ 17. Amendment.) Section 40-21-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-21-13. Municipal Elections To Be Governed by Rules Applicable to County Elections—Absent Voting.) The manner of conducting, voting at, keeping poll lists, and canvassing votes at municipal elections, and contests of the results of such elections shall be governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots may be used in municipal elections in accordance with the provisions of chapter 16-18, as amended.

Approved March 15, 1965.

CHAPTER 161

H. B. No. 580
(Brown)

PUBLICITY PAMPHLET, REPEAL

AN ACT

To repeal chapter 16-19 of the North Dakota Century Code, relating to the publication by the state of North Dakota of a publicity pamphlet prior to any statewide election.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Repeal.**) Chapter 16-19 of the North Dakota Century Code is hereby repealed.

Approved February 6, 1965.

CHAPTER 162

S. B. No. 33
(Reichert, Longmire, Sinner)
(From LRC Study)

INITIATIVE AND REFERENDUM

AN ACT

To provide for the procedure, conditions, manner, and form for submitting measures to a vote of the electorate through use of the initiative and referendum, providing penalties for fraudulent acts and violations in connection therewith; and to repeal section 16-01-11 of the North Dakota Century Code, providing penalties for fraudulent signing of petitions, and providing an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Initiative Petitions—Signatures—Filing.**) Any measure, as provided in section 25 of the Constitution, may be submitted to a vote of the electorate upon the filing of petitions with the secretary of state at least ninety days prior to any statewide primary or general election containing the signatures of qualified electors of the state equal in number to eight percent of the total vote cast for the office of governor at the preceding general election.

§ 2. **Referendum Petitions — Signatures — Filing.**) Any measure, as provided in section 25 of the Constitution, passed

by the legislative assembly, other than measures or portions of measures appropriating public funds, may be referred to a vote of the electorate upon the filing with the secretary of state not later than one hundred and twenty days after the adjournment of the session of the legislative assembly at which such measure was adopted, of petitions containing the signatures of qualified electors of the state equal in number to five percent of the total vote cast for the office of governor at the preceding general election. In a like manner, any item, section, part, or parts of a measure may be referred, and disapproval of such item, section, part, or parts shall have no effect upon the remaining item, section, part, or parts if such item, section, part, or parts can, by themselves, be given effect. The certification to the governor by the secretary of state as to the sufficiency of the number of signatures on a referral petition shall, except in the case of an emergency measure, be effective to suspend operation of the referred measure or item, section, part, or parts thereof pending a determination by vote of the electorate. When the secretary of state makes a proclamation as to the sufficiency or nonsufficiency of any petition and such proclamation has been challenged by a person pursuant to section 9 of this Act, such challenge shall suspend the operation of the referred measure of item, section, part, or parts thereof until such challenge has been determined as prescribed by law.

§ 3. Petitions to Contain Warning—Committee for Petitioners.) Each petition for the initiation or referral of any measure shall contain, one and one-half inches from the top of the front sheet thereof the word "WARNING", under which shall be printed in eight point type, single leaded, the following:

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or knowingly sign his name more than once for the same measure, or to sign such petition when he knows he is not a legal voter.

In addition, the petition shall bear the names and post office addresses of at least five qualified electors of the state, who shall constitute the "committee for the petitioners" and who shall represent and act for the petitioners.

§ 4. Form of Initiative Petition.) An initiative petition shall be printed on 8½ inch by 14 inch paper, shall set forth the full text of the proposed measure and, following the material prescribed by section 3, shall be in substantially the following form:

“INITIATIVE PETITION

To the Honorable, Secretary of State:

We the undersigned citizens and qualified electors of the state of North Dakota, respectfully demand that the following proposed law, to wit:

(Here insert complete text)

shall be submitted to the legal voters of the state of North Dakota for their approval or rejection at the..... election to be held on the.....day of....., 19....., and each for himself certifies: I have personally signed this petition; I am a qualified elector of the above-named county and the state of North Dakota; my post office address is correctly written after my name.”

§ 5. Form of Referendum Petition.) A referendum petition shall be printed on 8½ inch by 14 inch paper and may set forth the full text of the measure sought to be referred or may identify the same by bill number and title of the measure; however, if the referendum is against less than the entire measure, the item, section, part, or parts sought to be referred shall be set forth in full. Following the material prescribed by section 3, the petition shall be in substantially the following form:

“REFERENDUM PETITION

To the Honorable....., Secretary of State:

We the undersigned citizens and qualified electors of the state of North Dakota, respectfully order that Senate (or House) Bill No., to wit:

(Here insert title or title and text)

passed by the.....Legislative Assembly of the state of North Dakota, be referred to the legal voters of the state of North Dakota for their approval or rejection at the election to be held on theday of....., 19....., or at such earlier date as the governor may, by proclamation specify; and each for himself certifies: I have personally signed this petition; I am a qualified elector of the above-named county and the state of North Dakota; my post office address is correctly written after my name.”

§ 6. Petitions—Signature Lines—Signers To Be Residents of One County Only.) Following the material required by section 4 or 5 of this Act, there shall be not less than twenty-five nor more than fifty numbered horizontal lines, divided vertically into four columns with the left-hand column being

for the date, the second for the signature, the third for the post office address, and the fourth, being one inch in width, headed "Leave Blank". The signatures of qualified electors of only one county shall appear on each individual petition. The name of the county in which each petition is circulated shall clearly appear in the upper right-hand corner on each petition, and any signatures of persons other than residents of such county shall be void.

§ 7. Verification of Petitions.) Each petition containing signatures shall be verified immediately following the last signature line by the person who circulated such petition by affidavit in substantially the following form:

"State of North Dakota }
 County of..... } ss.

I,....., being first duly sworn, say:
 That I know that every person whose name is listed on the petition actually signed the foregoing petition and I believe that each has stated his or her name and post office address correctly.

Signed
 Post office address.....
 Telephone number

Subscribed and sworn to before me this.....
 day of....., 19.....

(SEAL) Notary Public,.....County,
 North Dakota
 My commission expires:....."

After executing the above affidavit, the person circulating such petition or the committee for the petitioners or their agent shall deliver it to the county auditor of the county in which it was circulated who shall promptly proceed to spot check the names of persons listed thereon to determine if those names included in the spot check appear to be electors of the county and that such names as signed appear to be the actual signatures of said electors. Such petitions shall, under the supervision of the county auditor, be available for examination by any citizen.

The county auditor shall not retain in his possession any petitions for a longer period than fifteen calendar days for the first two hundred signatures thereon plus one additional day for each five hundred additional signatures or fraction thereof on the petitions presented to him. The invalidity of

any name or signature, according to the information and belief of the county auditor, shall be indicated by appropriate notation in the right-hand column of the petition. At the expiration of the allotted time the auditor shall forward the petitions to the secretary of state with his certificate thereon substantially as follows:

“State of North Dakota }
County of..... } ss.

To the Honorable....., Secretary of State for the state of North Dakota:

I,....., County Auditor for the County of....., have made a spot check of the foregoing signatures and from the information available it is my belief that the names and signatures appearing on this petition are bona fide names and signatures of qualified electors of this county and that the post office addresses stated are substantially correct. As to the names and signatures, as indicated in the right-hand column, I find that they are either not bona fide electors of the county or that the signatures are not genuine.

Signed.....
County Auditor”

§ 8. Filing Petitions—Additional Verification—Certification for Election.) The certificate of the county auditor shall be prima facie evidence of the facts stated therein and the secretary of state shall consider and count only such signatures on such petitions as shall be so certified by the county auditor to be genuine; provided, that the secretary of state shall consider and count such of the remaining signatures as shall be proved to be genuine prior to the date of the determination of the sufficiency of the petitions as provided in section 9. To prove such facts the official certificate of a notary public of the county in which the signer resides shall be required and shall be in substantially the following form:

“State of North Dakota }
County of..... } ss.

On this.....day of.....in the year..... before me personally appeared....., who acknowledged to me that he did sign the annexed petition, that he is a qualified elector of the state of North Dakota and of the county of....., as listed, and that his post office address is correctly stated on the petition.

In Testimony Whereof, I have hereunto set my hand
and official seal this.....day of....., 19.....
(SEAL)

Signed
Notary Public
My commission expires:.....”

Such certificate shall be attached to the petition upon which the signatures appear.

When the secretary of state is satisfied that the petitions filed in his office bear a sufficient number of valid signatures, he shall make such determination known as provided in section 9 of this Act.

§ 9. Filing of Petition—Determination of Sufficiency—Waiting Period—Injunction.) If the secretary of state fails to find or refuses to immediately determine as legally sufficient any petition for the initiative or the referendum, any citizen may apply to the district court of Burleigh County for a writ of mandamus to compel him to do so. If the secretary of state determines the petitions for the initiative or the referendum do contain the legally required number of valid signatures he shall immediately make such determination known by issuing a proclamation to that effect or if upon finding the petitions do not contain the legally required number of valid signatures he shall also make that determination known in the same manner. The secretary of state shall certify the initiative or referendum petitions to the governor as containing the legally required number of signatures on the fifteenth day following the issuance of such proclamation, or on the succeeding day if the fifteenth day is a Sunday or a legal holiday. When the secretary of state makes his proclamation any citizen desiring to contest the determination made by the secretary of state shall apply within fifteen days to the district court of Burleigh County for an injunction prohibiting the secretary of state from making such certification or for a writ of mandamus to compel him to make such certification. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall immediately certify to the governor such petition as legally sufficient. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying such measure or printing it on the official ballot for the ensuing election. All such suits shall be advanced upon the court calendar and heard and decided by the court as soon as possible. Either party may appeal the decision of the district court to the supreme court within ten days after a decision is rendered.

§ 10. Election Proclamation by Governor.) Upon receipt of the certification from the secretary of state, the governor shall proclaim the date of the primary or general election called for in the petitions as the date upon which the measure is to be voted. In cases where, in the judgment of the governor, the best interests of the state and its citizens require, the governor may proclaim a special election upon any referred measure at any date earlier than that specified in the referendum petition.

§ 11. Election Laws to Govern—Conflicting Measures.) The general laws governing elections and the canvass of the returns thereof shall govern elections on the initiative and referendum in all instances where consistent with the provisions of this chapter. If conflicting measures initiated by or referred to the electors shall be approved at the same election by a majority of the votes cast thereon, the one receiving the highest number of affirmative votes shall become the law.

§ 12. Effective Date of Initiated or Referred Measure.) Any measure, except an emergency measure which shall remain in effect until repealed, submitted to the electors of the state shall become a law when approved by a majority of the votes cast thereon. Such law shall go into effect on the thirtieth day after the election, unless otherwise specified in the measure.

§ 13. Who May Sign Petition—Penalty for Wrongful Signing.) Any person who is a qualified elector of the state of North Dakota may sign a petition for the initiative or the referendum on any measure upon which he is legally entitled to vote. No person shall sign any name other than his own to any petition, or knowingly sign his name more than once for the same measure at one election, or sign the same when he is not a legal voter of this state.

§ 14. False Statements Concerning Petition Unlawful.) No person shall willfully or knowingly circulate, publish, or exhibit any false statement or representation concerning the contents or effect of any initiative or referendum petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign such petition.

§ 15. Filing Petition with False Signatures Unlawful.) No person shall file in the office of any officer required by law to receive the same, any initiative or referendum petition to which he is attached, appended, or subscribed any signature which the person so filing such petition knows to be false or fraudulent or not the genuine signature of the person pur-

porting to sign such petition, or whose name is attached, appended, or subscribed thereto.

§ 16. Circulating Petition with False, Forged, or Fictitious Names Unlawful.) No person shall circulate or cause to be circulated any initiative or referendum petition knowing the same to contain false, forged, or fictitious names.

§ 17. False Affidavit by Any Person Unlawful.) No person shall make any false affidavit concerning any initiative or referendum petition, or the signatures appended thereto.

§ 18. False Return, Certification, or Affidavits by Public Official Unlawful.) No public official or employee shall knowingly make any false return, certification, or affidavit concerning any initiative or referendum petition, or the signatures appended thereto.

§ 19. Ineligible Person Circulating Petition.) No person who is not a qualified elector of the state shall circulate or obtain signatures on any initiative or referendum petition. No person shall procure any person who is not a qualified elector of the state to circulate such petition or obtain such signatures.

§ 20. Other Unlawful Acts Enumerated.) No person shall offer, propose, or threaten to do any of the following acts in regard to any initiative or referendum petition:

1. To sell, hinder, or delay any initiative or referendum petition or any part thereof or the signatures thereon for any consideration; or
2. To use any petition or power of promotion or opposition to any petition in any manner or form for extortion, blackmail, or secret or private intimidation of any person or business interest.

§ 21. Penalty for Violations.) Any person violating any of the provisions of sections 13 through 20 shall, upon conviction, be punished by a fine of not to exceed five thousand dollars or imprisonment for a term of not to exceed two years, or by both such fine and imprisonment.

§ 22. Repeal.) Section 16-01-11 of the North Dakota Century Code is hereby repealed.

***§ 23. Effective Date.)** This Act shall not become operative unless and until the electors approve the amendment of section 25 of the Constitution submitted for approval to the electorate of this state at the general election in 1966 as designated in Senate Concurrent Resolution "A" of the Thirty-ninth Legislative Assembly.

Approved March 19, 1965.

***Note:** See section 5, chapter 483, 1965 S.L.