

# ELECTIONS

## CHAPTER 233

HOUSE BILL NO. 1058  
(Legislative Council)  
(Interim Elections Committee)

### INITIATIVE, REFERENDUM, OR RECALL PETITION SIGNATURE FORMS

AN ACT to amend and reenact section 16.1-01-09 of the North Dakota Century Code, relating to regulations governing initiative, referendum, or recall petitions.

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

\* SECTION 1. AMENDMENT. Section 16.1-01-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-01-09. Regulations governing initiative, referendum, or recall petitions.

1. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure, the printed name, signature, and address of the committee member, and notarization of the signature.
2. No person shall sign any initiative, referendum, or recall petition circulated pursuant to article III of the Constitution of North Dakota unless the person is a qualified elector. No person shall sign any petition more than once, and each signer shall add the signer's residential mailing address and the date of signing. Every qualified elector signing a petition shall do so in the presence of the person circulating the petition. A petition must be in substantially the following form:

\* NOTE: Section 16.1-01-09 was also amended by section 1 of House Bill No. 1057, chapter 234, and amended by section 39 of House Bill No. 1059, chapter 235.

	Month Day Year	Name Of Elector	Residence (Mailing Address)	City, State
1.	-----	-----	-----	-----
2.	-----	-----	-----	-----
3.	-----	-----	-----	-----
4.	-----	-----	-----	-----
5.	-----	-----	-----	-----
6.	-----	-----	-----	-----
7.	-----	-----	-----	-----
8.	-----	-----	-----	-----

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter.

- 2- 3. Each copy of any petition provided for in this section, before being filed, must have attached thereto an affidavit executed by the circulator in substantially the following form:

State of North Dakota)  
 ) ss.  
 County of -----)  
 (county where signed)  
 I, -----, being duly sworn,  
 (circulator)  
 depose and say that I am a qualified elector; that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each person whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

-----  
 (signature of circulator)  
 Subscribed and sworn to before me  
 this ----- day of -----, 19---,  
 at -----, North Dakota.  
 (city)

-----  
 (signature of notary)  
 Notary Public, North Dakota

- 3- 4. A petition for recall must include, before the signature lines, the name of the person being recalled, the office from which that person is being recalled, and a list of the names and residential mailing addresses of not less than five electors of the state, county, or district in which the official is to be recalled who are sponsoring the recall.

- ~~4.~~ 5. No petition shall be circulated under the authority of article III of the Constitution of North Dakota by a person who is less than eighteen years of age, nor shall the affidavit called for by subsection 2 be executed by a person who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety.

Approved March 14, 1985

## CHAPTER 234

HOUSE BILL NO. 1057  
 (Legislative Council)  
 (Interim Elections Committee)

## INITIATIVE, REFERENDUM, OR RECALL PETITIONS

AN ACT to amend and reenact section 16.1-01-09 of the North Dakota Century Code, relating to requirements for the form and circulation of initiative, referendum, or recall petitions.

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

\* SECTION 1. AMENDMENT. Section 16.1-01-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-01-09. Regulations governing initiative Initiative, referendum, or recall petitions - Signature - Form - Circulation.

1. No person shall sign any initiative, referendum, or recall petition circulated pursuant to article III of the Constitution of North Dakota unless the person is a qualified elector. No person shall sign any petition more than once, and each signer shall add the signer's residential mailing post-office address including the signer's residential address or post-office box number and the date of signing. Every qualified elector signing a petition shall do so in the presence of the person circulating the petition. A referendum or initiative petition must be in substantially the following form:

REFERENDUM [INITIATIVE] PETITION  
TO THE SECRETARY OF STATE, STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request [House (Senate) Bill ----- passed by the ----- Legislative Assembly] [the following initiated law] be placed on the ballot as provided by law.

- \* NOTE: Section 16.1-01-09 was also amended by section 1 of House Bill No. 1058, chapter 233, and amended by section 39 of House Bill No. 1059, chapter 235.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

<u>Name</u>	<u>Address</u>
----- (Chairman) -----	-----
-----	-----

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERScoreD, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERScoreD OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.

[The full text of the measure must be inserted here.]

QUALIFIED ELECTORS

		<u>Post-Office Address</u>		
		<u>Residencee</u>		
		<u>{Mailing</u>		
		<u>Address};</u>		
<u>Month,</u>	<u>Name</u>	<u>Residential Address</u>	<u>City,</u>	
<u>Day,</u>	<u>of</u>	<u>or P.O. Box No.</u>	<u>State</u>	
<u>Year;</u>	<u>Qualified</u>			
	<u>Elector;</u>			
1.	-----	-----	-----	-----
2.	-----	-----	-----	-----
3.	-----	-----	-----	-----
4.	-----	-----	-----	-----
5.	-----	-----	-----	-----
6.	-----	-----	-----	-----
7.	-----	-----	-----	-----
8.	-----	-----	-----	-----

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter. In this section for referral petitions "full text of the measure" means the bill as passed by the legislative assembly excluding the session and sponsor identification. In this section for initiative petitions "full text of the measure" means an enacting clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA" and the body of the bill. If the measure amends the law, all new statutory material must be underscored and all statutory material to be deleted must be overstruck by dashes. When repealing portions of the law, the measure must contain a repealer clause and, in brackets, the text of the law being repealed.

- 2. Each copy of any petition provided for in this section, before being filed, must have attached thereto an

affidavit executed by the circulator in substantially the following form:

State of North Dakota)  
 ) ss.  
 County of -----)  
 (county where signed)

I, -----, being duly sworn,  
 (circulator)  
 depose and say that I am a qualified elector; that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each person whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

-----  
 (signature of circulator)  
 Subscribed and sworn to before me this ----- day  
 of -----, 19---, at -----, North Dakota.  
 (city)

-----  
 (signature of notary)  
 Notary Public, North Dakota

3. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 1, the name of the person being recalled, the office from which that person is being recalled, and a list of the names and ~~residential mailing~~ post-office addresses including the residential addresses or post-office box numbers of not less than five electors of the state, county, or district in which the official is to be recalled who are sponsoring the recall.
4. No petition shall be circulated under the authority of article III of the Constitution of North Dakota by a person who is less than eighteen years of age, nor shall the affidavit called for by subsection 2 be executed by a person who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety. A petition may not include a statement of intent or similar explanatory information.

Approved March 31, 1985

## CHAPTER 235

HOUSE BILL NO. 1059  
(Legislative Council)  
(Interim Elections Committee)

### QUALIFIED ELECTOR

AN ACT to create and enact a new section to chapter 1-01 of the North Dakota Century Code, relating to a definition of qualified elector for petition purposes; and to amend and reenact sections 4-02-27.2, 4-02-30, 4-02-31, 4-08-01, 4-08-02, 4-08-05, 4-16-03, 4-22-42, 11-02-02, subsection 3 of section 11-03-02, sections 11-04-04, 11-05-03, subsection 2 of section 11-05.1-03, sections 11-06-09, 11-07-02, 11-07-06, 11-11-51, 11-11-59, 11-12-01, 11-13-16, 11-28.3-01, 11-28.3-05, 11-28.3-06, 11-30-01, 11-31-01.1, 15-18-05, 15-20.2-13, 15-22-25, subsection 2 of section 15-28-01, sections 15-40.2-01, 15-45-01, 15-47-43, 15-48-01, 15-53.1-05, 15-53.1-16, 15-53.1-34, 15-53.1-39, subsection 3 of section 16.1-01-09, section 16.1-01-12, subsection 4 of section 16.1-11-30, section 16.1-11-37, subsection 5 of section 16.1-12-02, subsection 1 of section 16.1-12-04, sections 16.1-16-01, 18-06-11, 18-10-01, subsections 2 and 3 of section 18-10-11, sections 21-03-10, 21-03-10.1, 21-03-11, 23-14-01, 23-14-13, 23-18.2-03, subsections 1 and 2 of section 23-30-02, sections 23-30-11, 24-05-01, 24-07-05, 24-07-11, 24-07-13, subsection 3 of section 32-28-03, sections 40-02-05, 40-03.1-01, 40-03.1-02, 40-03.2-01, 40-03.2-02, 40-04-01, 40-04-08, 40-04-09, 40-05.1-02, 40-08-03, 40-08-03.1, 40-08-03.2, 40-08-08, 40-08-16, 40-09-10, 40-10-01, 40-10-08, 40-12-02, 40-12-05, subsections 2 and 3 of section 40-12-06, sections 40-12-08, 40-12-09, 40-21-07, 40-37-02, 40-38-01, subsections 3 and 4 of section 40-38-02, sections 40-38.1-02, 40-44-02, 40-51.2-05, subsection 1 of section 40-53.1-01, sections 40-53.2-02, 40-55-08, 54-10-14, 54-10-15, 54-40-03, subsection 3 of section 57-15-12, sections 57-15-14, 57-15-16, 57-15-22.2, 57-15-26.3, 57-15-44, 57-15-50, 57-15-51, 57-15-51.1, subsection 3 of section 57-15-56, sections 57-15-57, 57-16-04, 58-02-01, 58-02-08, 58-02-09, 58-02-10, 58-02-11, 58-02-21, 58-02-25, 58-02-32, 58-04-05, 58-13-07, 58-15-01, 61-04.1-23, subsection 4 of section 61-04.1-24, sections 61-04.1-29, 61-04.1-30, 61-24-03, and 61-24.2-14 of the North Dakota Century Code, relating to election and petition requirements.

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

SECTION 1. A new section to chapter 1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Qualified elector" defined. Unless otherwise provided, as used in this code concerning qualifications for signing petitions to governmental bodies, "qualified elector" means a citizen of the United States who is eighteen years of age or older; and is a resident of this state and of the area affected by the petition.

SECTION 2. AMENDMENT. Section 4-02-27.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-27.2. Additional levy in certain counties. The board of county commissioners of any county having a population in excess of twenty-five thousand, according to the latest federal decennial census, shall, when petitioned by at least five percent of the qualified electors of the county, including qualified electors residing in at least one-half of the voting precincts of the county as determined by the number of votes cast in the county for the office of governor at the preceding general election, submit to the qualified electors of the county at any general election or special election called for such purpose, the proposition of authorizing the board of county commissioners to purchase or lease in the name of the county not to exceed two hundred forty acres [97.12 hectares] of real estate and to construct thereon such buildings and other improvements as may be deemed desirable for the conduct of a county fair and authorizing the board of county commissioners, if the county general fund is deemed insufficient to provide funds therefor, to levy a tax not exceeding the limitation in subsection 2 of section 57-15-06.7. If a majority of the votes cast at the election are in favor of the proposition, including the proposed levy, the tax shall be levied and collected as are other property taxes, with the proceeds to be placed into a fund to be known as the "county fair fund". The tax shall be in addition to any mill levy limitations provided by law, including the levies authorized by sections 4-02-27 and 4-02-27.1.

SECTION 3. AMENDMENT. Section 4-02-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02-30. Tax provided for to be submitted to vote. Whenever the board of county commissioners ~~shall have~~ has voted and ordered a tax levied in aid of an agricultural fair, at the next general election the question of continuing the annual levy and collection of the tax shall be submitted to a vote of the ~~people~~ qualified electors of the county. The county auditor shall certify and give notice of the submission of the question as in such cases provided by law. The ballots to be used at the election shall be in the following form:

For tax in aid of county fair

Yes //  
No //



favor of purchasing or leasing land for such purposes, the board of county commissioners shall purchase or lease, in conformity with this chapter, a tract of land not to exceed eighty acres, in the name of the county. The board of county commissioners shall construct such buildings and improvements on the land as it shall deem necessary for the operation and management of the fair. The election on the purchase or lease of land shall be conducted and the votes counted as at other elections.

**SECTION 5. AMENDMENT.** Section 4-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-08-01. County agent work - Petition - Submitting to vote.** Upon the filing with the county auditor of a petition containing the names of twenty percent of the qualified electors of the county as determined by the votes cast for governor in the county at the last preceding election, the board of county commissioners shall submit to the ~~people~~ qualified electors at the next general election the question of providing a tax levy for county agent work.

**SECTION 6. AMENDMENT.** Section 4-08-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-08-02. Form of petition.** The petition provided for in section 4-08-01 shall be in substantially the following form:

PETITION PROVIDING FOR LEVY FOR COUNTY AGENT WORK

We, the undersigned, qualified electors of ----- County, North Dakota, do hereby respectfully petition the honorable board of county commissioners that it levy a tax sufficient but not to exceed two mills to employ a county agent for the purpose of carrying on county agent work in cooperation with the North Dakota state university of agriculture and applied science.

**SECTION 7. AMENDMENT.** Section 4-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-08-05. Petition for discontinuance of county agent work - Form of petition - Election.** The question of the discontinuance of county agent work may be submitted to the ~~people~~ qualified electors in the manner provided in section 4-08-01. A separate ballot worded as is provided in section 4-08-03 shall be used at the election. The petition for discontinuing the levy shall be in the following form:

We, the undersigned qualified electors of ----- County, North Dakota, do hereby petition the honorable board of county commissioners that it place on the ballot at the next general election the question of discontinuing county agent work.

**SECTION 8. AMENDMENT.** Section 4-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-16-03. Bounty offered upon petition. If a petition signed by not less than twenty percent of the voters qualified electors of a county determined by the votes cast for governor at the last general election ~~shall be~~ is filed with the board of county commissioners asking that a bounty be offered for the destruction of gophers, rabbits, or crows, the board shall offer such bounty upon the pest or pests mentioned in said petition. Thereupon, the board shall publish, during the month of March of each year, in the local papers of the county, the amount of bounty or reward to be paid for the destruction of the pest or pests described in the petition, the manner of ascertaining the number destroyed, and the procedure necessary to obtain such reward.

SECTION 9. AMENDMENT. Section 4-22-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-22-42. Discontinuance of districts - Petition - Referendum - Eligible voters qualified electors. After the expiration of five years from the date upon which a district has been organized, twenty-five percent of the qualified electors living within the boundaries thereof may file a petition with the state soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee shall then conduct public meetings and hearings upon such petition in order to determine whether or not there is sufficient basis for a referendum to be held. If the committee determines that there is sufficient basis for a referendum, it shall give due notice of the holding of a referendum and shall issue appropriate regulations governing the conduct thereof within sixty days after it has made its determination. The question to be voted on at the referendum shall be submitted by ballot in substantially the following form:

Should the (insert name of district) -----  
 be terminated? Yes / /  
 No / /

All qualified electors within the boundaries of the district shall be eligible to vote in such referendum. The committee shall supervise the referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate the referendum or the result thereof if notice thereof shall have been given substantially as herein provided and the referendum shall have been conducted fairly.

SECTION 10. AMENDMENT. Section 11-02-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-02-02. How territory organized - Petition. Before any unorganized territory may be organized into a county, a written petition therefor signed by at least fifty percent of the bona fide qualified electors of the territory as determined by the number of votes cast for the office of governor at the preceding general election must be presented to the governor. The petition shall contain the name of the proposed county, describe the boundaries thereof, state that the

unorganized territory has a population of at least five thousand bona fide inhabitants, and request the governor to organize the territory into a county under the name stated in the petition.

**SECTION 11. AMENDMENT.** Subsection 3 of section 11-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Be signed by a majority of the legal veterans qualified electors residing in the territory to be taken from the existing county or counties as determined by the vote cast for the office of governor at the last preceding general election.

**SECTION 12. AMENDMENT.** Section 11-04-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-04-04. County seat - Removal - Petition - Election.** Whenever a petition of qualified electors of the county equal in number to twenty-five percent of the votes cast in the county for the office of governor at the preceding gubernatorial election shall be presented to the board of county commissioners of that county asking removal of the county seat from its current location to a place designated in the petition and that an election be held to determine whether or not such removal shall occur, the board of county commissioners shall submit the question of removal to the qualified electors of the county at the next general election if the petition conforms to the requirements of this chapter.

**SECTION 13. AMENDMENT.** Section 11-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-05-03. Consolidation of all territory within organized county with two or more counties - Petitions required - Election.** A county may be disorganized and the territory therein divided among and attached to two or more adjoining counties upon compliance with the provisions of this section. Petitions signed by thirty percent of the veterans qualified electors of each portion of the petitioning county, as determined by the vote cast for the office of governor at the last preceding general election, shall be filed with the boards of county commissioners of the petitioning county and of the adjoining counties named in such petitions. Such petitions shall not be considered unless petitions are filed under this section which together dispose of all of the territory in the petitioning county, nor unless such petitions have been filed at least ninety days prior to a statewide primary election. If the petitions conform to the requirements of this section, the boards of county commissioners to which such petitions are addressed shall submit the question of consolidation to the qualified electors of each of the counties affected at the next statewide primary election.

SECTION 14. AMENDMENT. Subsection 2 of section 11-05.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To hold meetings and hold public hearings to consider proposals which may be submitted by qualified electors of the county or adjoining counties or obtain public views upon plans prepared by the committee.

SECTION 15. AMENDMENT. Section 11-06-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-06-09. When territory less than one congressional township - Election. When a majority of the ~~legal voters~~ qualified electors of a territory containing less than one congressional township shall petition the boards of county commissioners as provided in section 11-06-01, such boards, in their discretion, may order elections to be held as provided in this chapter to pass upon the question of the change in county lines prayed for in the petitions.

SECTION 16. AMENDMENT. Section 11-07-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-07-02. When districts must be changed - Additional meeting - Public hearing - Notice. Each redistricting board shall, within three months after official publication of each federal decennial census, meet at the call of the chairman to organize as provided in this chapter and to consider redistricting. A redistricting board may additionally meet during a census interim if a resolution calling for a meeting is passed by the board of county commissioners or a petition calling for a meeting signed by ten percent of the number of county qualified electors ~~voting of the county as determined by the number of votes cast for governor in the last gubernatorial election~~ is presented to the board of county commissioners. If any one district in the county varies more than ten percent from the average population per commissioner in such county determined by dividing the total population of the county at the last federal decennial census by the number of commissioners' districts in such county, or if county commissioners are elected at large, the redistricting board shall redistrict the county, as provided in this chapter. If redistricting of a county is required, the chairman of the redistricting board shall, within thirty days after the date of the above meeting, call a meeting for the purpose of conducting a public hearing to review alternative plans for such redistricting. Notice of such meeting shall be published or caused to be published by the chairman in the official county newspaper at least ten days prior to the date of such hearing.

SECTION 17. AMENDMENT. Section 11-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-07-06. Petitions - Signers required - Submission of question to voters. The board of county commissioners, upon receipt of a

petition signed by at least ten percent of the qualified electors of the county as determined by the number of votes cast for the office of governor at the preceding general election, shall, in accordance with applicable provisions of title 16, cause the question of whether commissioners shall be elected at large to be submitted to the voters qualified electors of the county at the next succeeding primary or general election. If approved by sixty percent of the qualified electors voting at such election, all county commissioner districts in such county shall be immediately dissolved, and thereafter as the term of office of each member of the board of county commissioners expires, such office shall be filled by an election at large.

**SECTION 18. AMENDMENT.** Section 11-11-51 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-51. Petitions to board of county commissioners - Qualifications of signers. The signers of any petition presented to the board of county commissioners praying for the expenditure of county funds shall be ~~legal voters, property holders, and taxpayers~~ qualified electors of the district affected by the petition.

**SECTION 19. AMENDMENT.** Section 11-11-59 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-59. Creation of booster station by election. When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the question of establishing a television booster station, ultrahigh frequency, hereinafter referred to as an ultrahigh frequency booster station, is presented to the board of county commissioners, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by sixty percent of the votes cast, the board of county commissioners shall establish an ultrahigh frequency booster station, within the limits of the county, at a site to be named and established by the board of county commissioners.

**SECTION 20. AMENDMENT.** Section 11-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-12-01. Petition to change number of county commissioners - Election on question. If at least twenty percent of the qualified electors of a county, as determined by the number of votes cast for the office of governor at the preceding general election, shall petition the board of county commissioners for:

1. The increase of the number of county commissioners from three to five if the county, at the time of the filing of the petition, has three commissioners; or

2. The decrease of the number of county commissioners from five to three if the county, at the time of the filing of the petition, has five commissioners,

the board of county commissioners shall submit the question presented by the petition to the qualified electors of the county at a special election to be held in connection with the next statewide primary or general election, whichever is specified in the petition.

**SECTION 21. AMENDMENT.** Section 11-13-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-13-16. When county auditor may call special election. Whenever the board of county commissioners fails or refuses to call a special election required by any law of this state, the county auditor may provide for and call such election upon the petition of a majority of the ~~legal voters~~ qualified electors of the county as determined by the poll list of the last preceding general election.

**SECTION 22. AMENDMENT.** Section 11-28.3-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.3-01. Territory to be organized - Petition. Whenever twenty percent of the qualified electors, as determined by the vote cast in the last preceding gubernatorial election, residing in any rural territory, equivalent in area to one township or more not presently served by an existing ambulance service, elect to form, organize, establish, equip, and maintain a rural ambulance service district, they shall signify their intention by presenting to the county auditor of the county or counties in which the territory is situated, a petition setting forth the desires and purposes of the petitioners. The petition shall contain the full names and post-office addresses of the petitioners, the suggested name of the proposed district, the area in square miles to be included therein, and a complete description according to government survey, wherever possible, of the boundaries of the real properties intended to be embraced in the proposed rural ambulance service district. A plat or map showing the suggested boundaries of the proposed district shall accompany the petition, and the petitioner shall also deposit with the county auditor a sum sufficient to defray the expense of publishing the notices required by sections 11-28.3-02 and 11-28.3-03. Provided further that any city located within the area, whether such city has ambulance service or not, may be included in the rural ambulance district if twenty percent or more of the qualified electors residing in the city sign the petition.

**SECTION 23. AMENDMENT.** Section 11-28.3-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.3-05. Notice by county auditor of meeting to organize district. If a rural ambulance service district is approved as provided in this chapter, the county auditor of the county in which the proposed

district is located shall issue notice of a public meeting to organize the rural ambulance service district. The notice shall be given by publication once a week for two consecutive weeks, the last notice appearing seven days before the date of the meeting in a newspaper of general circulation within the proposed district. The notice shall be addressed to all qualified electors residing within the boundaries of the district, shall describe the boundaries of the district, and shall state the date, time, and place of the meeting. If the district is located within two or more counties, the county auditors of the counties shall confer and set the date, time, and place of the meeting, and shall cause the publication of the meeting notice in each of said counties.

**SECTION 24. AMENDMENT.** Section 11-28.3-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-28.3-06. Organization - Board of directors.** At the time and place fixed by the county auditor for the public meeting as provided in section 11-28.3-05, the qualified electors present who reside within the boundaries of the district shall proceed to organize the district. Permanent organization shall be effected by the election of a board of directors consisting of not less than five nor more than ten residents of the district. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. All directors and officers shall be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president shall be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election following the effective date of this section shall be selected by lot in the presence of a majority of such directors to serve one-year terms. All officers and directors shall serve without pay.

**SECTION 25. AMENDMENT.** Section 11-30-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-30-01. Counties may disorganize - Petition.** Whenever the board of county commissioners of any county having a population of less than four thousand inhabitants ~~according to the last preceding official state or federal census shall be~~ petitioned so to do by twenty percent of the qualified electors of such county, as determined by the vote cast for the office of governor at the last preceding general election, such board shall submit to the qualified electors of the county the question of disorganization of the county. The question shall be submitted at the next statewide election occurring more than ninety days after the filing of such petition.

**SECTION 26. AMENDMENT.** Section 11-31-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-31-01.1. Election for creation or termination of office of county highway engineer. Upon the filing with the county auditor of a petition signed by not less than five percent of the qualified electors of the county as determined by the total number of votes cast in the last election, representing not less than seven percent of the voting precincts of the county, asking that an election be held on the question of the creation of the office of county highway engineer, the board of county commissioners shall submit the question at the next regular primary or general election. Notice of the election shall be given in the manner prescribed by law for the submission of questions to the qualified electors of a county under the general election law. If a majority of the votes cast on the question are in favor thereof, the office of county highway engineer shall be established and the board of county commissioners shall fill such office by appointment. The office so created shall not be terminated except upon the instruction of a majority of the qualified electors voting on the question in an election similarly held but any engineer appointed to fill such office may be removed from office by action of the board.

SECTION 27. AMENDMENT. Section 15-18-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-05. County levy to aid in the financing of residual or other fiscal obligations of a junior college or educational center authorized. The board of county commissioners of any county, or part of a county, in which a junior college or off-campus educational center of a state-supported institution of higher education has been established, or any county, or part of a county, adjacent thereto, may upon approval of the qualified electors of such county at a countywide election, levy a tax of not exceeding five mills upon all property in such county, to aid any special school district which maintained a junior college or off-campus educational center of a state-supported institution of higher education. The mill levy herein authorized shall be over and above any mill levy limitation provided by law, and shall be for the purpose of financing any residual or other fiscal obligations of the school district under the terms of an agreement between the district and the state board of higher education pursuant to section 15-10-01.1. At any time after the approval of such levy, upon petition of five percent of the qualified electors voting in the last preceding countywide election, the county commissioners shall submit the question of the continuance of such levy to the next countywide election, and if the majority of the qualified electors shall vote to discontinue such levy, the levy shall be discontinued in subsequent years.

SECTION 28. AMENDMENT. Section 15-20.2-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.2-13. Referendum on district participation in multidistrict center - Majority required for approval. A school district board shall not proceed to obtain approval as a participating district in a

multidistrict vocational education center if a petition for referendum of the question of said school district participating in a multidistrict vocational education center signed by twenty percent of the qualified voters electors of said school district voting at the last annual school election is filed with the school board within sixty days of the publication of the resolution provided for in section 15-20.2-12. When such petition is filed, the school board shall not obtain approval as a participating district in a multidistrict vocational education center until the question of whether the district shall enter into a multidistrict vocational education center has been submitted to the voters qualified electors of the district. If a majority of the total number of votes cast on the question within the school district is in favor of the question, the school board may proceed to obtain approval as a participating district in a multidistrict vocational education center.

**SECTION 29. AMENDMENT.** Section 15-22-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-22-25. Two or more counties or parts thereof may have a common county superintendent of schools - Petition by electors and formulation of plan - Approval reinstatement. Whenever five percent of the qualified electors of a county or part thereof, as determined by the vote cast for the office of governor at the last general election at which such office was voted upon, shall sign and file a petition setting forth the areas with the county auditor of such county requesting that a county superintendent be elected by two or more contiguous counties or parts thereof to perform the functions of such office for such counties, the county auditor shall transmit a certified copy of such petition to the county auditors of the counties set forth in such petition. Upon receiving such petitions the boards of county commissioners of each county affected by said petition shall, either by joint action or upon a resolution passed by a majority of each board, formulate a plan for a county superintendent of schools to serve the counties or parts thereof designated by such plan. Alternatively, and without the need of receiving petitions, the board of county commissioners of any county may, by resolution, formulate a plan to discontinue the office of the superintendent of schools of the county or parts thereof and combine with another county or counties or parts thereof for the election of a county superintendent of schools to perform the functions of such office for the counties or parts thereof involved. The county superintendent of schools shall be elected for a term of four years and serve as the county superintendent of schools for the counties or parts thereof designated by such plan. In formulating such plan, the board of county commissioners shall consult with school board presidents and the other boards of county commissioners of counties or parts thereof affected by such plan. Such plan shall encompass all necessary provisions relating to location and sharing of costs of the office so established, and the boards of county commissioners shall be authorized to expend funds of the several counties or parts thereof pursuant to such plan. By joint action or upon a resolution passed by a majority of each board, the boards of county commissioners shall call a public hearing by publishing a notice in

the official newspaper in each county at least fourteen days prior to the date of hearing on the proposed plan. Pursuant to such public hearing such plan shall be submitted to the state board of public school education for approval or disapproval. Upon approval by the state board of public school education, the plan shall be submitted by the county auditor to a vote of the people qualified electors in each county or parts of a county at an election held prior to July first preceding the expiration of the current term of office of county superintendent of schools. If a majority of the votes cast in each county or parts of a county be in approval, the plan shall go into effect with the beginning of the next term of office for the county superintendent of schools, provided the remaining part or parts of the county are embraced in a similar plan with another county. The county auditor of each county or parts thereof shall place the office on the regular no-party ballot. The canvassing of votes, certifying of nominations, and certifying of elections for any county superintendent elected under the provisions of this section shall be carried out in the same manner as for candidates for the legislative assembly.

Whenever five percent of the qualified electors of the county or parts thereof, as determined by the vote cast for the office of governor at the last general election at which such office was voted upon, shall sign and file a petition with the county auditor of the county involved requesting that a separate county superintendent be elected by each county, or when directed by the joint action or by resolutions passed by a majority of each board involved, the county auditor of each county involved in the plan for a combined county superintendent of schools shall submit the plan to a vote of the people qualified electors in each county or parts of a county at an election held prior to July first preceding the expiration of the current term of office of the county superintendent of schools. If a majority of the votes cast in each county or parts of a county approves the plan, the plan shall remain in effect. If a majority of the votes cast in each county or parts of a county reject the plan, the plan shall be discontinued with the beginning of the next term of office for the county superintendent of schools and the office of county superintendent of schools shall be reinstated as it existed prior to formulation of the plan by the county commissioners.

\* SECTION 30. AMENDMENT. Subsection 2 of section 15-28-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The number of school board members in any public school district may be increased to either five, seven, or nine or decreased to seven or five if a petition signed by at least one-third of the voters qualified electors of the school district as determined by the number of persons voting at the most recent annual school district election is filed with the school board asking for such change, and the change is approved by a majority of the voters qualified electors of the district voting at a special

\* NOTE: Section 15-28-01 was also amended by section 5 of Senate Bill No. 2065, chapter 209.

election called for that purpose. If approved, the additional members shall be elected to the board at the next annual school district election in the same manner as other school board members. If the total number of board members after the increase is approved is five, two shall serve until the first annual election, two until the second annual election, and one until the third annual election thereafter. If the total number of board members after the increase is approved is seven, three shall serve until the first annual election, two until the second annual election, and two until the third annual election thereafter. If the total number of board members after the increase is approved is nine, three shall serve until the first annual election, three until the second annual election, and three until the third annual election thereafter. All such members shall serve for the terms prescribed above and until their successors are elected and qualified, and the length of the respective terms of those members elected as a result of the increase in membership of the board shall be determined by lot. In no event shall the length of any term which existed prior to the increase in membership and which is held by a member who has duly qualified, be modified by such determination. Terms subsequent to the first shall be for the normal term of three years, and until a successor is elected and qualified. School board members shall be elected at large, except that if the district in which they are elected has been reorganized under the provisions of chapter 15-53 or article III of chapter 15-53.1, such members may be elected either at large or by geographical area. In districts reorganized under the provisions of chapter 15-53 or article III of chapter 15-53.1, in which an increase in the membership of the board is proposed, the election on the reorganization plan shall take the place of the petition and election requirements of this subsection, and approval of the reorganization plan shall have the same effect as if the approval were by the election provided for in this subsection. Should a decrease to not less than five members be approved by the voters qualified electors voting, the excess number of members will serve out existing terms until the number approved by the voters qualified electors has been reached.

**SECTION 31. AMENDMENT.** Section 15-40.2-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40.2-01.** Transfer of pupils to other districts or institutions - Tuition agreements. The school board of any district may send kindergarten, elementary, or high school pupils into another school district or to an accredited institution of another state when, because of shorter distances and other conveniences, it is to the best interests of the school district to do so, and in such instances the board may pay

the tuition of such pupils to the district or institution to which they are sent. The school board may arrange, and when petitioned to do so by a majority of qualified electors of the district, shall arrange with the school boards of other districts or with the institutions, to send pupils to such other districts or institutions who can be taught conveniently therein, and for the payment of their tuition and for furnishing and paying for their transportation to and from such other schools or institutions.

**SECTION 32. AMENDMENT.** Section 15-45-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-45-01. Establishing kindergartens - Election on mill levy.** The school board of any school district may, upon its own motion, establish free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term. A school board which establishes free kindergartens may levy a tax pursuant to subdivision f of subsection 1 of section 57-15-14.3. On a petition signed by qualified electors of the school district comprising at least five percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, but in no case less than twenty-five qualified electors, the school board must submit the question of establishing a kindergarten program at the next annual or special school election. If the question of establishing a kindergarten program is placed on the ballot, that question must include a statement of any increase in the district's mill levy needed to finance the program. The question must be approved by the ~~district's~~ qualified electors of the district by the respective margins of electorate approval as provided for in section 57-15-14, and approval of the question constitutes elector approval of the additional mill levy necessary to finance the program.

**SECTION 33. AMENDMENT.** Section 15-47-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-47-43. Public school districts - Corporate powers - Corporate name - Name change.** All school districts in the state of North Dakota, except the Fargo school district, are public school districts and shall be governed by the provisions of this title. Every public school district shall be a body corporate for school purposes and the name of such school district shall be substantially as follows:

"----- Public School District No. -----  
of ----- County, State of North Dakota."

The school district shall possess all the powers and shall perform all the duties usual to corporations for public purposes or conferred upon it by law. Under its name it may sue and be sued, enter into contracts, and convey such real and personal property as shall come into its possession by will or otherwise. It may have a corporate seal by which its official acts may be attested. Whenever

in the judgment of the school board of any public school district it is deemed desirable to change the name of the school district, or whenever one-third of the qualified electors of the school district shall submit a petition requesting a change in the name of the school district, the school board shall submit the proposed name change at the next school election. Upon ratification of the proposed change of such name by a majority of the ballots cast on the question, the school district shall be renamed accordingly. The clerk of the school board of the district shall notify the county auditor, the county superintendent of schools, and the superintendent of public instruction of any change in the name of the district.

**SECTION 34. AMENDMENT.** Section 15-48-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-48-01. Petition for election - Authority of board.** Whenever there shall be presented to, and filed with, the school board of any public school district, a petition, signed by at least one-third of the qualified electors of such school district, requesting that the school board submit to the qualified electors of the district the question of increasing the limit of indebtedness of such district five percent on the assessed value of the taxable property of said district beyond the five percent limit of indebtedness fixed by the constitution, the board must submit said question to the qualified electors at the next annual school election, or at a special election called in said district for that purpose, provided, that the board may submit said question to the qualified electors at a regular or special election on its own motion without such petition.

**\* SECTION 35. AMENDMENT.** Section 15-53.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-53.1-05. Attachment of contiguous territory to school district - Petition.** Territory contiguous to a public school district, whether in the same county or in another, may be attached to such school district by the county committee upon written application signed by two-thirds of the qualified electors in the contiguous territory after hearing and subject to the provisions of section 15-53.1-29. The sufficiency of the petition and the determination of the number of qualified electors necessary to constitute a two-thirds majority shall be determined by the county committee. As used in the words "territory contiguous" in this section, the word "territory" shall mean all or any portion or part of an organized school district, and the word "contiguous" shall mean any two or more tracts which are in actual contact at least to the extent of touching at a common corner.

**\*\* SECTION 36. AMENDMENT.** Section 15-53.1-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\* NOTE:** Section 15-53.1-05 was repealed by section 9 of Senate Bill No. 2065, chapter 209.

**\*\* NOTE:** Section 15-53.1-16 was repealed by section 9 of Senate Bill No. 2065, chapter 209.

15-53.1-16. Public hearing on proposals for reorganization - Hearing testimony for adjusting. The county committee shall hold a public hearing on the advisability of any proposal by such committee for the reorganization of school districts which involves the formation of a new district by either the unification of two or more existing operating districts into one larger district or separation of territory from one or more operating districts to create one or more new operating districts. Notice of hearings shall be given by publishing a notice in the official county newspaper at least fourteen days prior to the date of such hearing. If the county committee fails to call such hearing and to give the required public notice, a petition signed by twenty-five percent of the qualified electors in the area proposed to be included in the new school district and presented to the committee shall make it mandatory for a hearing to be called. The notice of such hearing shall be published within ten days after the date of filing of the petition, and shall set forth the date selected for the hearing, which shall not be more than twenty days after the date of publication. The county committee shall also hear at such time as may be fixed by it, testimony offered by any person or school district interested in any proposal of the county committee to form a new district, to transfer territory from one school district to another, or to attach to an established district or districts all or any part of another district subject to disorganization for any of the reasons now specified by law; such testimony and documentary evidence to be considered by the county committee with respect to any of the following factors:

1. The value and amount of all school property of whatever nature involved in the proposed action;
2. The nature, amount, and value of all bonded, warrant, and other indebtedness of each school district affected by the proposed action, including all unexecuted obligations with separate consideration given to the amount of outstanding indebtedness incurred for current expenses, the amount incurred for permanent improvements, and the location of such improvements in order that an equitable adjustment of all property, debts, and liabilities among the districts involved be made;
3. The taxable assessed valuation of the existing districts and the differences in such valuation which would accrue under a proposed reorganization;
4. The size, geographical features, and boundaries of the districts;
5. The number of pupils attending school and the population of the districts;
6. The location and condition of the districts' school buildings and their accessibility to affected pupils;

7. The location and condition of roads, highways, and natural barriers within the respective districts;
8. The school centers where children residing in the districts attend high school;
9. Conditions affecting the welfare of the teachers and pupils of the involved districts;
10. The boundaries of other governmental units and the location of private organizations in the territories of the respective districts;
11. The educational needs of local communities in the involved districts;
12. An objective in economizing in the use of transportation and administrative services;
13. Projected future use of existing satisfactory school buildings, sites, and playfields in the involved districts;
14. A reduction in disparities in per-pupil valuation between school districts and the objective of equalization of educational opportunities for pupils;
15. Any other relevant factors which, in the judgment of the county committee, are of importance.

Following the county committee's consideration of testimony and documentary evidence with respect to any of the factors listed in subsection 3, the county committee shall make specific findings with reference to every one of those factors to which testimony or documentary evidence was directed in proceedings before the committee.

The county committee shall keep a record of all hearings on the reorganization of school districts and of all findings and terms of adjustment of property, debts, and liabilities among the districts involved, and shall submit the same to the state board at the time of submitting a plan as provided in section 15-53.1-17. A subcommittee composed of not less than three members of a county committee, or three members of the county committee of each county concerned in case territory in two or more counties is involved, may hold any hearing that the county committee is required to hold.

\* SECTION 37. AMENDMENT. Section 15-53.1-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-53.1-34. Sale or removal of school buildings in reorganized districts. On motion of the school board, or on petition of a majority of the qualified electors in an original school district included in a

\* NOTE: Section 15-53.1-34 was repealed by section 9 of Senate Bill No. 2065, chapter 209.

reorganized district established in accordance with the provisions of this article, for the sale or removal of a schoolhouse in such district, the school board of the reorganized district may have the school building moved to the place designated in the petition, or sold if the petition so provides. The proceeds of such sale shall be placed in either the general fund or the building fund of the reorganized district, in the discretion of the school board. In the event such sale or removal is to a political subdivision of this state, it may be made for less than the fair market value of the school building upon motion unanimously approved by the school board.

**\* SECTION 38. AMENDMENT.** Section 15-53.1-39 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-53.1-39. Changes in reorganization plan.** At any time after the reorganization plan has become effective, any provision of the reorganization plan theretofore or thereafter adopted, including those affecting the adjustment of assets and liabilities but excepting those provisions defining the boundaries of the district, may be changed by a majority vote of the electorate qualified electors without approval of the state board or county committee. The school board in the reorganized district may, upon its own motion, or shall, upon the filing with it of a petition containing signed by a number of signatures qualified electors equal to at least one-third of the total number of votes cast qualified electors voting at the most recent school district election, submit the question of authorizing the change at the next regular or special election. The new election shall follow the election procedure provided in section 15-53.1-22 and shall involve the same geographic areas as were concerned with the original reorganization election. Electors Qualified electors within any territory which has been annexed to the reorganized district shall vote with either an incorporated area or unincorporated area depending on the status of the annexed area at the time of its annexation and as defined by section 15-53.1-22. If a majority of all votes cast by the qualified electors residing in each of the geographic areas are in favor of the proposed change, then the proposed change shall be effected.

**\*\* SECTION 39. AMENDMENT.** Subsection 3 of section 16.1-01-09 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-01-09. Regulations governing initiative, referendum, or recall petitions.**

3. A petition for recall must include, before the signature lines, the name of the person being recalled, the office from which that person is being recalled, and a list of the names and residential mailing addresses of not less than five qualified electors of the state, county, or

**\* NOTE:** Section 15-53.1-39 was repealed by section 9 of Senate Bill No. 2065, chapter 209.

**\*\* NOTE:** Section 16.1-01-09 was also amended by section 1 of House Bill No. 1058, chapter 233, and amended by section 1 of House Bill No. 1057, chapter 234.

district in which the official is to be recalled who are sponsoring the recall.

**SECTION 40. AMENDMENT.** Section 16.1-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-01-12. Election offenses - Penalty.** It shall be is unlawful for a person to:

1. Fraudulently alter another person's ballot or substitute one ballot for another, or to otherwise defraud a voter of his vote.
2. Obstruct ~~an~~ a qualified elector on the way to a polling place.
3. Vote or offer to vote more than once in any election.
4. Knowingly vote in the wrong election precinct or district.
5. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
6. Knowingly exclude a qualified elector from voting, or knowingly allow an unqualified person to vote.
7. Knowingly vote when not qualified to do so.
8. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
9. Sign a name other than his own name to an initiative, referendum, recall, or any other election petition.
10. Circulate an initiative, referendum, recall, or any other election petition not in its entirety, or circulate such a petition when unqualified to do so.
11. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
12. Willfully violate any rule ~~or regulation promulgated~~ adopted by the secretary of state pursuant to this title.
13. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to his care.

14. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.

A violation of subsections 1 through 13 ~~shall be~~ is a class A misdemeanor. A violation of subsection 14 occurring after an election but before the final canvass, or during an election, ~~shall be~~ is a class C felony, and in other cases ~~shall be~~ is a class A misdemeanor.

Every act which by the provisions of this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election.

**SECTION 41. AMENDMENT.** Subsection 4 of section 16.1-11-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Any other party, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the fifty-fifth day prior to a primary election, asking that a column be provided for such party, naming it, and stating the platform principles thereof. If such petition is mailed it shall be in the possession of the secretary of state before four p.m. on the fifty-fifth day. Candidates of such party shall be entitled to the same rights and privileges as those of other parties.

**SECTION 42. AMENDMENT.** Section 16.1-11-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-11-37. **Vote required for nomination on no-party ballot - Partisan nominations prohibited.** The number of persons to be nominated as candidates for any one no-party office shall be that number of persons who receive the highest number of votes and who total twice the number of available positions for the office, if that many persons are candidates for nomination. Provided, however, that no person shall be deemed nominated as a candidate for any no-party office at any primary election unless the number of votes received by him equals the number of signatures of qualified electors required to be obtained on a petition to have a candidate's name for the office placed on the primary ballot. No partisan nominations shall be made for any of the offices mentioned in section 16.1-11-08.

**\* SECTION 43. AMENDMENT.** Subsection 5 of Section 16.1-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Signatures of qualified electors, ~~as defined in this title,~~ who reside in the state, district, or political

**\* NOTE:** Section 16.1-12-02 was also amended by section 1 of Senate Bill No. 2147, chapter 244, and amended by section 1 of House Bill No. 1207, chapter 245.

subdivision. The signatures need not be appended to one paper, and each person signing shall add his mailing address and the date of signing. The signatures on the petition shall be in the following number:

- a. If the nomination is for an office to be filled by the qualified electors of the entire state, there shall be not less than one thousand signatures.
- b. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures shall be ten percent of the number of votes cast in the district for governor at the last preceding general election, but in no case shall more than three hundred signatures be required.

**SECTION 44. AMENDMENT.** Subsection 1 of section 16.1-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The following certificates of nomination shall be filed with the secretary of state, with written notice of that filing filed with the county auditor of each county included within the district wherein the offices are to be elected:
  - a. Certificates of nomination for nominees for offices to be filled by the qualified electors of the entire state.
  - b. Certificates of nominations for nominees for offices to be filled by the qualified electors of any district greater than a county.
  - c. Certificates of nomination for nominees for legislative offices.

**\* SECTION 45. AMENDMENT.** Section 16.1-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-16-01. Election recounts.** A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, or county office, or for the approval or disapproval of any measure or question submitted to the qualified electors of this state or one of its counties shall be conducted as follows:

1. The demand for a recount may be made by any of the following:
  - a. Any person who failed to be nominated in a primary election by less than two percent of the highest vote

**\* NOTE:** Section 16.1-16-01 was also amended by section 11 of Senate Bill No. 2259, chapter 249, and amended by section 1 of Senate Bill No. 2324, chapter 251.

- cast for a candidate of his party for the office sought.
- b. Any person who failed to be elected in a general or special election by less than one-half of one percent of the highest vote cast for a candidate for that office.
  - c. Any person who files a petition signed by at least five qualified electors, when a question or measure submitted to the qualified electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.
2. The recount demand must be made within ten days after the canvass of the votes by the county canvassing board in the case of county elections, and by the state canvassing board in the case of congressional, state, district, or legislative elections. The demand shall be in writing, shall recite one of the conditions in subsection 1 as a basis for the recount, and shall be filed with:
    - a. The secretary of state when the recount is for a congressional, state, district, or legislative office or a question submitted to the qualified electors of the entire state.
    - b. The county auditor when the recount is for a county office or a question submitted to the qualified electors of a county.
  3. When the secretary of state receives a timely recount demand and finds it to be in the proper form, he shall immediately notify all the county auditors to conduct a recount as provided in this section. The secretary of state shall fix the date of statewide recounts. The date shall be within ten days after receipt of the recount demand. The county auditor shall determine the validity of recount demands filed with him and shall fix the date for recounts limited to his county. The date shall be within ten days after receipt of the recount demand. In all recount proceedings, the county auditor shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.
  4. Recounts shall be conducted by the county auditor who may employ up to four county qualified electors of the county to assist in the recount. The county auditor shall review all paper, machine, electronic voting system, and absentee ballots, whether or not the ballots were counted at the precinct or the county canvass, to determine which ballots were cast and counted according to the law. The county auditor shall check the precinct count and the count of

the county canvassing board. If the county auditor files a recount demand, he shall be disqualified from acting thereon, and the clerk of the district court of the county shall perform the duties required of the county auditor by this section.

5. The persons entitled to participate at the recount are:
  - a. Each candidate involved in the recount, either personally or by a representative.
  - b. ~~An~~ A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor shall count the challenged ballot as he deems proper and shall then set the ballot aside with a notation that it was challenged and how it was counted. At the conclusion of the recount, the county auditor shall submit all challenged ballots to the recount board for decision. The recount board shall be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the clerk of the district court of the county. No person shall serve on the recount board if he would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the county commission who would be qualified to serve on the board shall appoint disinterested qualified electors of the county to serve as alternates. The recount board shall review all challenged ballots, and on majority vote shall decide how they shall be counted. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter.

6. The county auditor shall certify the results of the recount no later than fifteen days after the filing of the recount demand. The recount result shall become the official result of the election in the county. The county auditor shall prepare a corrected abstract of the votes. In a recount limited to the county, if the corrected abstract shows no change in the outcome of the election, no further action shall be taken. If the corrected abstract changes the outcome of the election, the county auditor shall issue certificates of nomination or election accordingly, and shall certify the new result of a question submitted to the ~~electorate~~ qualified electors.

7. In congressional, statewide, district, or legislative recounts, the county auditor shall, no later than fifteen days after the filing of the recount demand, send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state shall immediately assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the electorate qualified electors accordingly.
8. The expenses incurred in a recount of a county election shall be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a congressional, state, or legislative election shall 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.
9. The results of any recount of votes cast in an election of a member of the legislative assembly shall be admissible in either house of the legislative assembly, or before a committee of either house, as evidence to aid in the determination of an election contest pending in that house.

**SECTION 46. AMENDMENT.** Section 18-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-06-11. Contracts for fire protection in unorganized townships - Mill levy. Upon the petition of a majority of the qualified electors in one or more unorganized townships or in school districts comprising unorganized townships, the board of county commissioners shall have authority to execute contracts with any incorporated municipality, rural fire protection districts, or rural fire departments of this or adjacent states to provide for the prevention of, the protection from, and the extinguishment of fires within such unorganized townships or districts in such manner as may be agreed upon by the board of county commissioners and the governing body of the municipality contracting to perform such services. The board of county commissioners is further authorized to levy a sum sufficient for the reimbursement of municipalities performing such services upon all taxable property within the unorganized townships or school district comprising unorganized townships for which such fire protection service is provided. The mill levy provided herein shall be over and above any mill levy limitation provided by law and shall be collected and paid as other county taxes are collected and paid. The proceeds of such tax shall be placed by the county treasurer in a special fund for the reimbursement of the municipality providing fire protection service to the unorganized townships or districts from which the tax is collected, and shall be disbursed upon the order of the board of county commissioners.

SECTION 47. AMENDMENT. Section 18-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-01. Territory to be annexed - Petition. Whenever sixty percent of the freeholders residing in any rural territory, equivalent in area to one township or more, elects to form, organize, establish, equip, and maintain a rural fire protection district, they shall signify such intention by presenting to the county auditor of the county or counties in which such territory is situated, a petition setting forth the desires and purposes of such petitioners. Such petition shall contain the full names and post-office addresses of such petitioners; the suggested name of the proposed district, the area in square miles [kilometers] to be included therein, and a complete description according to government survey, wherever possible, of the boundaries of the real properties intended to be embraced in the proposed rural fire protection district. The petitioners shall also present to the county auditor a plat or map showing the suggested boundaries of the proposed district, and shall deposit with the county auditor a sum sufficient to defray the expense of publishing the notices required by sections 18-10-02 and 18-10-03. Provided, further, that any city located within the area, whether such city has a fire department or not, may be included in the rural fire district if sixty percent or more of the qualified electors residing therein sign such petition.

SECTION 48. AMENDMENT. Subsections 2 and 3 of section 18-10-11 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The proceedings for the annexation, referred to in subsection 1, may be initiated by the presentation to the auditor of a petition signed by sixty percent or more of the qualified electors who are owners of any interest in real or personal property assessed for taxation in the territory to be annexed and who are residing within the boundaries of such territory stating the desires and purposes of such petitioners. The petition shall contain a description of the boundaries of the territory proposed to be annexed. It shall be accompanied by a map or plat and a deposit for publication costs.
3. The county auditor shall consult the tax schedules in the office of the county auditor and determine and certify whether or not such petition complies with the requirements of subsection 2 and that the persons qualified electors signing the same appear to reside within the boundaries described by such petition. Thereafter, the county auditor shall forward such petition, map or plat, and certificate to the board of directors of the district concerned.

SECTION 49. AMENDMENT. Section 21-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-10. Initial resolution - How adopted. The initial resolution may be:

1. Adopted by a majority vote of the governing body at any regular meeting thereof or at any special meeting of which notice has been given as required by law, without any previous action thereon or request therefor by the voters qualified electors or property owners.
2. Proposed by filing a copy thereof in the office of the auditor or secretary of the municipality, together with a petition signed by legal voters qualified electors of the municipality aggregating in number one-fourth of the number of legal voters qualified electors of the municipality, as shown by the pollbook for the last preceding annual or general election held therein, or if such pollbook was not kept, then as shown by a census of the voters qualified electors of such municipality verified by the affidavit of one of such petitioners. Such petition shall ask that an election on the question of issuing such bonds be called. Upon the filing of such proposed initial resolution and petition, the governing body shall call such election in the manner specified by section 21-03-11.

SECTION 50. AMENDMENT. Section 21-03-10.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-10.1. School districts - Use of bond funds.

1. The initial resolution or petition providing for the issuance of bonds, whether adopted by a majority vote of the school board of a school district or proposed by the voters qualified electors of the school district as provided for in section 21-03-10, may, within the discretion of those proposing such initial resolution or petition, provide for a specific school plan for which the proceeds of the bond issue shall be exclusively used except as otherwise provided in section 21-03-42. Such plan shall designate the general area to be served by expenditure of bond proceeds for school purposes. The area intended to be served shall be described in the plan, but need not be described in the bond election ballot.
2. The bond election ballot form authorized in section 21-03-13 shall be sufficient. After approval of the initial resolution by the number of qualified electors required by section 21-03-07, the proceeds of the bond issue shall be used only for the purpose and in the manner designated by the school plan except as herein provided.
3. After approval of the bond issue, no change shall be made in the purpose of expenditure of the bond proceeds except

that, upon a favorable vote of sixty percent of the qualified electors residing in any specific area intended to be served as provided in subsection 1, material changes may be made in such plan as it affects said area to the extent such changes do not conflict with contractual obligations incurred.

**SECTION 51. AMENDMENT.** Section 21-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-11. Elections - When and how called and held.** Upon or after the adoption of an initial resolution by the governing body, or at the first meeting of the governing body held after the filing of a petition and proposed initial resolution by the voters qualified electors as specified in subsection 2 of section 21-03-10, subsection 2; the governing body by resolution shall provide for submitting to the qualified voters electors of the municipality the question whether such initial resolution shall be approved. The date of such election shall be not less than twenty days after the passage of such initial resolution by the governing body or in the filing of a sufficient petition therefor by the voters qualified electors. The governing body shall designate the date of such election, the polling hours, and polling place thereof, which shall be the same as for municipal elections therein, and shall appoint an inspector, two judges, and two clerks of election for each polling place. In case of the absence of any such official of election, or his inability to act at the opening of the polls, the remaining election officials for the precinct shall appoint a qualified voter elector to fill such vacancy. Such election shall be conducted and the returns thereof made and canvassed as in the case of elections of members of the governing body of such municipality.

**SECTION 52. AMENDMENT.** Section 23-14-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-14-01. Formation of health districts.** When in the opinion of the state health officer, on information obtained in cooperation with local officers and boards, the health needs of any given area may be better served by the formation of a health district, as hereinafter provided, the state health officer shall so notify the county auditor of each county involved and the city auditor of each city having a population in excess of fifteen thousand persons. Each county auditor and city auditor must place the matter before the governing board of the county or city at its next regular meeting, and the governing board by resolution either must adopt or reject the plan at the same or the first subsequent meeting. If resolutions are adopted by the governing boards of the cities and counties as hereinbefore provided, adopting the health district plan, all laws and parts of laws in conflict therewith automatically shall become inoperative throughout the territory embraced within the district, and particularly the laws relative to city, township, and county boards of health. If the board of county commissioners of any county or the city council or city commission of any city, rejects the plan, it may submit the question of adoption of the

provisions of this chapter to the qualified electors of the county or city at the next ensuing general or special election to be held in said county or city. In all elections held under ~~the provisions~~ of this chapter the votes cast in the cities having a population in excess of fifteen thousand inhabitants shall be considered separate and apart from the votes cast elsewhere in the county, and the participation in the health district by any city shall be governed by the votes cast in the city as distinguished from the vote cast elsewhere in the county. If a majority of the qualified electors vote in favor of the adoption of the provisions of this chapter, the board of county commissioners, within ten days after the canvass of said election, shall adopt such resolution, and, upon the adoption of such resolution such county or counties, together with the cities voting in favor of the plan, shall be considered a district health unit or health district. On a petition filed with the county auditor containing names of qualified electors of the county equal to ten percent of the votes cast for the office of governor at the last general election, an election on the question of forming a health district shall be held as heretofore provided. The health districts shall follow county lines, and in case the district as outlined by the state health officer includes more than one county, and the plan is adopted in any of said counties or cities, and rejected in any one or more of the other counties or cities, it shall become effective in the county or counties and city or cities adopting the plan, if in the exercise of his discretion the state health officer deems the same operative.

SECTION 53. AMENDMENT. Section 23-14-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-14-13. Dissolution. After a district health unit organized as provided in this chapter has been in operation for two years, the same may be dissolved in the following manner: On a petition filed with the county auditor containing names of qualified electors of the county equal to ten percent of the votes cast for governor at the last general election, an election on the question of dissolution shall be presented to the ~~people~~ qualified electors at the next general or special election held in the county. If a majority of the votes cast favor dissolution, the health unit shall be dissolved on July first following the election. If a majority of the votes cast are against dissolution, no other election shall be held until a period of two years has again expired.

SECTION 54. AMENDMENT. Section 23-18.2-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18.2-03. Creation of nursing home authority by election. When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the establishment of a nursing home authority is presented to the board of county commissioners, the board of county commissioners shall submit the question to the

qualified electors of the county at the next countywide election. Upon approval by sixty percent of the votes cast, the board of county commissioners shall establish a county nursing home authority as described in sections 23-18.2-03 through 23-18.2-07 with all its powers, including the powers to issue bonds and certify a tax levy as described in sections 23-18.2-16 and 23-18.2-12, respectively.

**SECTION 55. AMENDMENT.** Subsections 1 and 2 of section 23-30-02 of the 1983 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The board of county commissioners of any county, or two or more boards of county commissioners acting jointly, shall, when requested to do so by petition of twenty percent of the eligible veterans qualified electors, as determined by those voting for governor in that geographical area at the last gubernatorial election, in any territory equivalent in area to one township or more, submit the question to the veterans qualified electors at a special election or the next regularly scheduled primary or general election as to whether or not the veterans qualified electors of the area desire to establish a hospital district and whether they approve of the mill levy authorized by section 23-30-07 for the purpose of supporting such hospital district. If sixty percent of the veterans qualified electors voting in the election within the proposed district approve, the county commission or county commissions, as the case may be, shall, by resolution, create the hospital district comprising the entire area as described in the petition.
2. In the event the qualified electors of a hospital district desire to dissolve such district, thirty percent of the eligible veterans qualified electors, determined as in subsection 1, may petition the board of directors of the hospital district to place the question of the continued existence of the hospital district before the qualified electors of the district at the next regularly scheduled primary or general election. If at least sixty percent of the persons qualified electors voting in such election do not approve of the continued operation of the hospital district, the board of directors shall notify the county commission or county commissions, as the case may be. The county commission or county commissions shall, upon receipt of such notice, by resolution order the dissolution of the hospital district. Mill levies previously authorized shall continue to be collected as authorized until the termination of the authority therefor.

**SECTION 56. AMENDMENT.** Section 23-30-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-30-11. Territory to be annexed.**

1. Any territory which is adjacent to the boundary of an existing hospital district may be annexed to such district in the manner hereinafter provided.
2. The proceedings for the annexation, referred to in subsection 1, may be initiated by the presentation to the county auditor of a petition signed by thirty percent or more of the qualified electors who are owners of any interest in real property assessed for taxation in the territory to be annexed and who are residing within the boundaries of such territory stating the desires and purposes of such petitioners. The petition shall contain a description of the boundaries of the territory proposed to be annexed. It shall be accompanied by a map or plat and a deposit for publication costs.
3. The county auditor shall consult the tax schedules in his office and determine and certify whether or not such petition complies with the requirements of subsection 2 and that the ~~persons~~ qualified electors signing the same appear to reside within the boundaries described by such petition. Thereafter, the county auditor shall forward such petition, map or plat, and certificate to the board of directors of the district concerned.
4. Within thirty days after receiving the petition, map or plat, and certificate of the county auditor, in accordance with subsection 3, from the county auditor, such board of directors shall transmit the same to the proper county board, accompanied by a report in writing approving or disapproving the proposal contained in the petition, or approving such proposal in part and disapproving it in part.
5. If the report of the board of directors, referred to in subsection 4, disapproves the proposal, the petition shall be rejected. If the report is favorable to such proposal, either in whole or in part, the board of county commissioners shall give notice of election in the manner prescribed by section 23-30-03 and submit the question to the veters qualified electors at the next regularly scheduled primary or general election as to whether or not the veters qualified electors of the proposed area desire to be annexed and whether they approve of the mill levy authorized by section 23-30-07 for the purpose of supporting such hospital district. If at least sixty percent of the veters qualified electors voting in the election within the territory proposed to be annexed approve, the territory shall become a part of the existing hospital district.

**SECTION 57. AMENDMENT.** Section 24-05-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-01. County road tax - Allocation and use of funds. In each county having a population of two thousand or more, there shall be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by section 57-15-06, on each dollar of the taxable valuation of all taxable property in the county for the improvement of highways. When authorized by sixty percent of the qualified electors voting upon the question at a regular or special election in the county, the county commissioners may levy and collect a property tax not exceeding the limitation in subsection 14 of section 57-15-06.7. The levy pursuant to such an election may be discontinued at the discretion of the county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy shall be submitted to the qualified electors of the county at any regular or special election and, upon a favorable vote of sixty percent of the qualified electors voting, such levy shall be discontinued. Of the proceeds of the tax collected on account of property situated within any city, by the county treasurer of the county in which the city is located, twenty percent shall be turned over by the treasurer to the auditor of the city, in the manner provided in section 11-13-06 to be expended under the direction of the governing body of the city in the improvement of its streets and highways. All other proceeds of the tax shall be kept in a distinct fund to be known as the "county road fund" and shall be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. The provisions of this section in regard to allocation shall apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road fund or for expenditure for road and bridge purposes. No allocation pursuant to this section shall include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor shall any allocation under this section include moneys received from the state as the result of any other intergovernmental transfer.

SECTION 58. AMENDMENT. Section 24-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-07-05. Petition for laying out, altering, or discontinuing roads. The board having jurisdiction as provided in this chapter may alter or discontinue any road or lay out any new road upon the petition of not less than six legal veterans qualified electors who own real estate, or who occupy real estate under the homestead laws of the United States, or under contract from this state, have an ownership interest in real estate in the vicinity of the road to be altered, discontinued, or laid out. Said petition shall set forth in writing a description of the road and what part thereof is to be altered or discontinued, and if for a new road, the names of the owners of the land, if known, over which the road is to pass, the point at which it is to commence, its general course, and the point where it is to terminate.

**SECTION 59. AMENDMENT.** Section 24-07-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-07-11. When notice dispensed with.** In cases where at least seventy percent of the legal voters qualified electors who are owners or part owners of land bordering on any existing or proposed road or highway shall have signed the original petition and thereby released all their claims to damages arising from altering, discontinuing, or laying out such road or highway, it shall not be necessary to post copies of the petition as provided for in section 24-07-09, nor to post notices or serve notices as provided for in section 24-07-10, except that the notices must be served personally or left at the abode of such occupants as may have failed to sign the petition and whose land borders on the road or highway proposed to be opened, altered, or discontinued. The general knowledge, and the fact, that seventy percent of the legal voters shall qualified electors have signed the original petition in compliance with this provision shall be deemed sufficient notice to all concerned and for all intents and purposes.

**SECTION 60. AMENDMENT.** Section 24-07-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-07-13. Examination of proposed highway.** The board having jurisdiction, upon being satisfied that copies of the petition have been posted and notices have been served and posted as required, or that at least seventy percent of the legal voters qualified electors who are owners of lands affected have signed the original petition and that notices have been served personally or left at the abode of those who may have failed to sign the original petition, proof of which shall be shown by affidavit, shall proceed to examine the proposed highway and shall hear any reasons for or against the laying out, altering, or discontinuing of the same, and shall decide upon the application as it deems proper.

\* **SECTION 61. AMENDMENT.** Subsection 3 of section 32-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. That two-thirds of the legal voters qualified electors of such city, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, have signed such petition expressing their desire that such change of name be granted.

**SECTION 62. AMENDMENT.** Section 40-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-02-05. Petition for incorporation - Contents - Census and survey to accompany - Hearing - Notice.** A petition for the incorporation of a municipality under this chapter shall be addressed to the board of county commissioners of the county in which the proposed municipality is located and if such municipality is located in more than one county, to the board of county commissioners of the county

\* **NOTE:** Section 32-28-03 was also amended by section 19 of Senate Bill No. 2275, chapter 337.

wherein the greater part of the territory is situated, and shall be signed by not less than one-third of the qualified electors residing within the territory described in such petition, and by the owners of not less than fifty percent in assessed value of the property located within the territory described in such petition.

1. The petition shall show:
  - a. The boundaries of the proposed municipality, and the assessed valuation of all property located within such boundaries.
  - b. The number of inhabitants residing within such boundaries.
  - c. The name of the proposed municipality, which shall be different from that of every other municipality in this state.
  - d. A request that the question of incorporating the territory described in the petition as a city under the council form of government or a city under the commission system of government, as the case may be, be submitted to the qualified voters electors residing within the territory.
2. The petition, when submitted, shall be accompanied by:
  - a. An incorporation plan showing how municipal services, including fire and police protection, street construction and maintenance, sewers, water, garbage disposal, planning, zoning, accounting, assessment, financing, and legal services, will be provided; and
  - b. Any other information that may reasonably be required by the board of county commissioners to whom the petition is addressed including, but not limited to, population, population density, per capita assessed valuation, proximity to populated areas, likelihood of significant growth, need for services, present cost and adequacy of services, and effect of proposed action and alternative actions on adjacent areas.

The petition shall be filed in the office of the county auditor, accompanied by a verified copy of the census required under this chapter and by a duplicate map of the survey of the proposed municipality, and shall be submitted to the board of county commissioners at the time indicated in the notice described in section 40-02-04 or as soon thereafter as the board can receive and consider the same. The board of county commissioners to whom the petition is addressed shall designate a time and place for consideration of the petition and shall notify the petitioners of that time and place. The petitioners shall then cause a notice containing the substance of the petition, and the time and place it

will be heard, to be published once a week for two consecutive weeks in the official county newspaper or newspapers of the county or counties and in other newspapers as deemed appropriate by the board of county commissioners of each county embracing the territory to be incorporated.

**SECTION 63. AMENDMENT.** Section 40-03.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-03.1-01. Change from council system of government - Petition required.** Any city which shall have operated for more than six years since the adoption of the city council system of government or since the last election at which the question of changing from the council system was rejected by the voters a vote of the qualified electors, may change its organization thereunder and adopt the city commission form of government. The proceeding to change shall be initiated by a petition asking for such change signed by not less than forty percent of the qualified electors of the city. For the purpose of this section the term "qualified electors of the city" means, as determined by the total number of qualified electors voting at the preceding general election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name, address, and age of each petitioner, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

**SECTION 64. AMENDMENT.** Section 40-03.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-03.1-02. City auditor to pass on sufficiency of petition.** Within thirty days after a petition to change from the council system of government is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers electors. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient, his certificate shall show the reason for such determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

**SECTION 65. AMENDMENT.** Section 40-03.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-03.2-01. Change from council system of government - Petition required.** Any city incorporated as a city under the council form of government may change its organization thereunder and adopt the modern council form of government. The proceeding to change shall be initiated by a petition asking for such change signed by not less than one-third of the qualified electors of the city. For the purpose of this section the term "qualified electors of the city" means the total number of qualified electors voting at the preceding general election of the city. The signatures to such petition need not be contained in a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the address of each petitioner, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

**SECTION 66. AMENDMENT.** Section 40-03.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-03.2-02. City auditor to pass on sufficiency of petition.** Within thirty days after a petition to change from the council system of government is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers electors. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

**SECTION 67. AMENDMENT.** Section 40-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-04-01. Incorporation as commission city.** Any city in this state having a population of not less than five hundred inhabitants may become incorporated as a city under the commission system of government in the following manner: whenever one-tenth of the qualified electors of such municipality, based upon the votes cast for the office of governor at the last preceding general election, shall petition the governing body of such municipality to submit to

a vote of the qualified electors the question whether such city shall become incorporated as a city under the commission system of government, the governing body shall submit such question to the qualified electors, appoint a time when and place or places where the election shall be held, and designate the judges and clerks at such election. Such question shall not be submitted more than once in every four years.

**SECTION 68. AMENDMENT.** Section 40-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-04-08. Change from or reversion to commission system of government - Petition required.** Any city which shall have operated for more than six years under or since changing from the city commission system of government may change its governmental organization and adopt the city council form of government or the modern council form of government or revert to the city commission form of government. The proceeding to change or revert shall be initiated either by a resolution by the governing body or by a petition asking for such change signed by not less than twenty-five percent of the qualified electors of the city. In no event, however, shall the petition contain less than thirty signatures. In any city having six or more municipal election precincts, not more than twenty percent of the petitioners may reside in any single precinct. For the purpose of this section the term "qualified electors of the city" means the total number of qualified electors voting for the office of the chief executive officer of the city at the preceding city election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be and that such person purports to be not less than eighteen years of age and a resident of the city. Each petition, in addition to the names of the signers, shall contain the name of the street upon and the number of the house in which each petitioner resides. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed. If the proceeding to change from or revert to a commission system of government is initiated by petition, the question may not be placed on the ballot more often than every four years.

**SECTION 69. AMENDMENT.** Section 40-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-04-09. City auditor to pass on sufficiency of petition to change from commission system of government.** Within thirty days after a petition to change from the commission system of government is filed, the city auditor shall examine the petition and ascertain whether or not the petition is signed by the required number of signers qualified electors. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days

after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, it shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same, with his certificate, before the governing body of the municipality.

**SECTION 70. AMENDMENT.** Section 40-05.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-05.1-02. Methods of proposing home rule charter.** The governing body of any city may on its own motion cause a home rule charter to be framed and submitted for adoption to the qualified electors of the city in the manner provided in this chapter, or such proposal may be made in a petition filed with the governing body and signed by not less than fifteen percent of the qualified electors of the city voting in the last city election.

**SECTION 71. AMENDMENT.** Section 40-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-08-03. Number of aldermen determined by population - Census to govern.** The number of aldermen shall be as follows:

1. In cities of two hundred inhabitants or less, four, except that the city council may by resolution duly adopted reduce the number of aldermen to two.
2. In cities of more than two hundred but not more than six hundred inhabitants, four.
3. In cities of more than six hundred but not more than two thousand inhabitants, six.
4. In cities of more than two thousand but not more than four thousand inhabitants, eight.
5. In cities of more than four thousand but not more than ten thousand inhabitants, twelve.
6. In cities of more than ten thousand inhabitants, fourteen.
7. Cities of ten thousand or more inhabitants which have been incorporated and operating under the council form of government may change to a ten aldermen and mayor organization upon approval by a majority vote at a special election called pursuant to the procedure hereinafter provided.

~~The population of the cities shall be determined by the last official federal, state, or municipal census.~~ Whenever a census of the city shall show a population requiring more aldermen than are in

the council at the time of taking such census, the city council shall not be required to make a change in the number of aldermen and the corresponding change in the number of wards of such city unless a majority of the qualified electors thereof, to be determined by the number of names on the poll list of the last city election, petition therefor.

**SECTION 72. AMENDMENT.** Section 40-08-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-03.1. Change to ten aldermen and mayor - Petition required. Any city of more than ten thousand inhabitants operating under the council form of government may change its organization thereunder and operate with ten aldermen and mayor. The proceeding to change shall be initiated by a petition asking for such change signed by not less than one-third of the qualified electors of the city. ~~For the purpose of this section the term "qualified electors of the city" means as determined by the total number of qualified electors voting at the preceding general election.~~ The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name, address, and age of each petitioner, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

**SECTION 73. AMENDMENT.** Section 40-08-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-08-03.2. City auditor to pass on sufficiency of petition requesting change to ten aldermen and mayor. Within thirty days after a petition to change to ten aldermen and mayor is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers electors. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

**SECTION 74. AMENDMENT.** Section 40-08-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-08-08. Vacancies on council - How filled.** If a vacancy occurs in the office of alderman by death, resignation, or otherwise, the city council may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days of the date of such vacancy appoint a person from the ward in which the alderman previously holding was elected or appointed to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the qualified electors of such ward, as determined by the total number of votes cast in such ward in the last general election, the council shall call a special election to fill a vacancy occurring more than six months before the next city election, provided such petition has been submitted within fifteen days and before four p.m. of the fifteenth day of the date of such vacancy. If the petition is mailed it shall be in the possession of the council or its representative before four p.m. on the fifteenth day after the vacancy occurs.

**SECTION 75. AMENDMENT.** Section 40-08-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-08-16. Vacancy in office of mayor - Filled by election or by council - President of council to be acting mayor.** If a vacancy occurs in the office of mayor, the city council may call a special city election to fill such vacancy for the unexpired term or may, after fifteen days from the date of such vacancy, elect one of its members to act as mayor, the member so elected shall possess all the rights and powers of the mayor until the next election and until a mayor is elected and qualified. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last general election, the council shall call a special election to fill a vacancy occurring more than six months prior to the next city election, provided such petition is submitted within fifteen days of the date of such vacancy. During the interim between the date when a vacancy occurs in the office of mayor and election and qualification of a successor, the president of the city council shall be the acting mayor.

**SECTION 76. AMENDMENT.** Section 40-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-09-10. How vacancies in board filled.** If a vacancy occurs in the office of a city commissioner or president of the board of city commissioners, the board may call a special city election to fill such vacancy for the unexpired term, or may, after fifteen days from the date of such vacancy appoint a person to fill such vacancy until the next city election, at which election the unexpired term shall be filled. Upon petition of five percent of the qualified electors, as determined by the total number of votes cast in the city in the last general election, the commission shall call a special city election to fill a vacancy occurring more than six months prior to the next city election, provided such petition has been submitted within fifteen days of the date of such vacancy.

**SECTION 77. AMENDMENT.** Section 40-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-10-01. Petition for city manager - Contents - Notice of election - Election.** Twenty-five percent or more of the qualified electors of a city, as shown by the number of votes cast for the executive officer of the city at the preceding city election, may petition for the city manager plan of government. Within thirty days after such petition is filed with the city auditor, the governing body of the city shall provide for the submission of such proposal to the voters qualified electors of the city at an election to be held within ninety days after such filing. The city auditor shall give thirty days' notice of the date of the election and of the purposes thereof. The notice of election shall state briefly the powers of the city manager if the plan should be adopted. The election shall be held, the votes canvassed, and the results declared in the same manner as in the case of city elections.

**SECTION 78. AMENDMENT.** Section 40-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-10-08. Election to determine question of retention of city manager plan - Procedure thereafter.** At any time after the city manager plan has been in force in any city for a period of five years or more, the governing body of the city may submit at any regular election the question of whether or not such plan shall be retained. If a petition signed by forty percent or more of the qualified electors of the city as shown by the votes cast for the executive officer at the preceding city election, requesting the submission of such question is filed with the city auditor, the governing body shall submit such proposal to the voters qualified electors of the city at an election to be held within ninety days after the filing of such petition. The signatures to such petition need not be appended to a single paper, but each single paper so used shall clearly state the purpose of the petition at the top of the paper, and each signature shall have been placed thereon not more than ninety days prior to the date on which the petition is filed in the office of the city auditor. Upon each paper one of the signers to qualified electors signing such petition shall, under oath before an officer competent to administer oaths, swear that he witnessed the signing of each signature appearing on such paper and that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name of the street and the number of the house in which each petitioner resides, the length of his residence in the state of North Dakota, the length of his residence in the city, and the date on which the petitioner signed the petition. Any petitioner shall be permitted to withdraw his name from a petition at any time prior to action by the governing body calling the election as provided herein. Such question shall not be submitted more than once in every five years. If a majority of the votes cast at the election shall be against retaining the city manager plan, the city shall revert to the plan in force previous to the adoption of the city manager plan, and the provisions of this chapter shall

not be applicable to such city except after another compliance with its terms. The governing body shall fix the date, not less than three months nor more than six months after an election at which the majority vote is against the retention of the city manager plan, when such plan shall cease to be operative in the municipality.

**SECTION 79. AMENDMENT.** Section 40-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-12-02. Submission of proposed ordinance by petition - Filed with city auditor - Request in petition.** Any proposed ordinance may be submitted to the governing body of the municipality by a petition signed by qualified electors thereof equal in number to fifteen percent of the votes cast for all candidates for the executive officer at the preceding regular municipal election. The petition shall be filed in the city auditor's office, and shall contain a request that the ordinance set out in the petition be submitted to a vote of the qualified electors of the city if it is not passed by the governing body of the municipality.

**SECTION 80. AMENDMENT.** Section 40-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-12-05. City auditor to determine sufficiency of initiative petition - Certificate attached to petition.** Within ten days after the filing of a petition to initiate an ordinance, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the requisite number of qualified electors. The governing body of the municipality shall allow such extra help for the examination of the petition as it deems necessary. The city auditor shall attach to the petition his certificate showing the result of the examination and if the petition is insufficient he shall state in his certificate the reasons therefor. If the city auditor's certificate shows the petition to be insufficient, it may be amended within ten days from the date of the certificate. Within ten days after any such amendment, the city auditor shall make an examination of the amended petition, and if his certificate attached thereto shall show the amended petition to be insufficient, it shall be returned to the person filing the same without prejudice to the filing of a new petition to the same effect. If the petition is sufficient, the city auditor shall submit it to the governing body of the municipality without delay.

**SECTION 81. AMENDMENT.** Subsections 2 and 3 of section 40-12-06 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Call a special election, unless a general city election is fixed within ninety days thereafter, and submit to the vote of the qualified electors of the municipality the initiated ordinance without alteration; or

3. If the petition is signed by not less than twenty-five percent of the qualified electors as defined in section 40-12-02, pass the ordinance without change within twenty days after the filing of the petition or submit the initiated ordinance at the next general municipal election, if the election occurs not more than thirty days after the city auditor's certificate of sufficiency is attached to the petition, and if no general municipal election is to be held within thirty days after the city auditor's certificate of sufficiency is attached to the petition, it shall call a special election.

**SECTION 82. AMENDMENT.** Section 40-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-12-08. Petition to refer ordinance - Suspension of ordinance - Requirements of petition.** An ordinance which has been adopted by the governing body of a municipality may be referred to the qualified electors of the municipality by a petition protesting against such ordinance. Such petition shall be signed by qualified electors of the municipality equal to at least ten percent of the entire vote cast for all candidates for executive officer of the municipality at the preceding regular municipal election, and shall be presented to the governing body of the municipality within ten days and before four p.m. on the tenth day after the ordinance described in the petition became effective. If a petition is mailed to the governing body of the municipality it shall be in the possession of such body before four p.m. on the tenth day after the ordinance became effective. Unless the ordinance protested against was passed by a four-fifths vote of the members of the governing body of the municipality for the immediate preservation of the public peace, health, and safety and contains a statement of its urgency, it shall be suspended upon the filing of the petition. The petition provided for in this section shall be in all respects in accordance with the provisions of sections 40-12-02, 40-12-03, and 40-12-04, except as to the number of signers required, and shall be examined and certified by the city auditor in all respects as provided in section 40-12-05.

**SECTION 83. AMENDMENT.** Section 40-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-12-09. Referred measure - Submission - Result of election.** When a referendum petition is filed, the governing body of the municipality shall reconsider the ordinance described therein, and if it is not entirely repealed, the governing body shall submit it to the vote of the qualified electors of the municipality at the next regular municipal election or at a special election to be called for that purpose as provided in section 40-12-06. The ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. If the referred ordinance was not suspended by the filing of the referendum petition, it no longer shall be effective if it is disapproved by a majority vote of the qualified electors voting on the same.

**SECTION 84. AMENDMENT.** Section 40-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-21-07. Petition for nomination of elective official in municipalities - Signatures required - Contents.** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least thirty-three days and before four p.m. on the thirty-third day prior to the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. Signers of Qualified electors who sign a petition shall reside within the ward or precinct in and for which such officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed it shall be in the possession of the city auditor before four p.m. on the thirty-third day prior to the holding of the election. In no case shall more than three hundred signatures be required, and such signatures may be on separate sheets of paper. Each signer of qualified elector who signs such petition shall add to his name his mailing address.

**SECTION 85. AMENDMENT.** Section 40-37-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-37-02. Authority for levy initiated by petition - Signatures - Filing - Question submitted to electors.** The authority for making a tax levy for municipal band purposes shall be initiated by a petition signed by at least ten percent of the qualified electors of the municipality as determined by the number of votes cast at the last regular municipal election. The petition shall be filed with the governing body and shall request that the following question be submitted to the qualified electors:

Shall a tax of not exceeding ----- mills (specifying the rate) be levied each year for the purpose of furnishing a band fund?

When such petition is filed, the governing body shall cause the question to be submitted to the qualified electors at the first following general municipal election.

**SECTION 86. AMENDMENT.** Section 40-38-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-38-01. Public library and reading room - Establishment - Election.** The governing body of any city or county upon petition of not less than fifty-one percent of the ~~voters~~ qualified electors of the city or county as determined by the total number of votes cast at the last general election or upon a majority vote of the qualified electors thereof shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in

cooperation with the state library, or with one or more cities or counties, or by participation in an approved state plan for rendering public library service under the Library Services and Construction Act [20 U.S.C. 351-358], and acts amendatory thereof. Such question shall be submitted to the qualified electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of qualified electors of the city or county that voted at the last general election, filed with the governing body not less than sixty days before the next regular election. Library service may be discontinued within any city or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

SECTION 87. AMENDMENT. Subsections 3 and 4 of section 40-38-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. Whenever a tax for county library service is levied, any city already levying a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of the county, be exempted from the county tax levy to the extent that the city making the application levies taxes for a library fund during the year for which the tax levy is made. If the city has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the voters qualified electors of ~~such~~ the city or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in the county less the total number of votes cast at the last general election in the city. If an election on the question is held, the voters qualified electors of any city so exempted from the county library tax shall not be entitled to vote on the establishment or discontinuance of the county library service.
4. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters qualified electors in the last general election of any city, school district, township, or county, filed not less than sixty days before the next election, the governing body shall submit to the voters qualified electors at the next election the question of whether the governing body shall increase the mill levy a specified amount for public library service above the mill levy limitation set out in this section. The governing body may call a special election at any time for the purpose of voting on the question, and the election shall be called, conducted, and certified as are other elections in that political

subdivision. Upon approval by sixty percent of the voters qualified electors voting in the election, the governing body shall increase the levy for public library service in the amount approved by the voters qualified electors.

**SECTION 88. AMENDMENT.** Section 40-38.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-38.1-02. Municipal arts fund - Levy - Collection - Kept separate.** For the purpose of establishing and maintaining the municipal arts council, the governing body of a city authorizing the same shall establish a municipal arts fund. The fund shall consist of revenues from any city property tax authorized by this section, which levy may be made by the city at the direction of the municipal arts council in any amount, but not exceeding the limitation in subsection 7 of section 57-15-10 and any other moneys received from federal, state, county, city, or private sources. The city auditor shall keep the municipal arts fund separate and apart from the other money of the city, and it shall not revert to or be considered funds on hand by the governing body at the end of any fiscal year. The municipal arts fund shall be used exclusively for the establishment and maintenance of the municipal arts council and for grants by the council to appropriate arts organizations in the city. Upon motion of the governing body or upon petition of not less than twenty-five percent of the voters qualified electors voting in the last general election of the city, filed not less than sixty days before the next regular election, the governing body shall submit to the voters qualified electors at the next regular election the question of whether such governing body shall annually levy a specified amount not to exceed five mills for the municipal arts council.

**SECTION 89. AMENDMENT.** Section 40-44-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-44-02. Failure or refusal of city to adopt civil service - Petition - Election held.** If the governing body of any city which is subject to the provisions of this chapter shall fail or refuse to adopt the provisions of this chapter, twenty percent of the qualified electors of the city may file a written petition with the city auditor demanding that the provisions be adopted or that the question be submitted to the qualified electors of the city, and unless the civil service system is adopted by the governing body, the question shall be submitted to the qualified electors of the city at the next regular municipal election.

**SECTION 90. AMENDMENT.** Section 40-51.2-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-51.2-05. Notice - Petition of owners and electors.** The governing body shall not take final action on a petition presented by owners and qualified electors until the petitioners have given notice of

presentation of their petition by one publication in the official newspaper of the city as provided by section 40-01-09.

**SECTION 91. AMENDMENT.** Subsection 1 of section 40-53.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If qualified electors of a city equal in number to one-fourth of the number of voters qualified electors voting at the last regular city election petition the board of county commissioners of the county wherein the city is situated to dissolve the city, the board of county commissioners shall order a special election to be held within the city on the question of dissolving the city.

**SECTION 92. AMENDMENT.** Section 40-53.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-53.2-02. Consolidation - Resolution or petition - Election.** The governing body of any city may, by resolution, or shall, upon petition by ten percent of the number of qualified voters electors of the city who voted for governor at the last general election at which a governor was elected, place on the ballot at the next general election to be held in that city the following question:

Shall the city governing body appoint a committee from its membership to meet with members of the governing board of the city of -----, as a municipal consolidation review commission, to draft a proposal for consolidating the city of ----- with the city of -----?

**SECTION 93. AMENDMENT.** Section 40-55-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-55-08. Election to determine desirability of establishing recreation system - How called.** The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified voters electors but not less than five percent of those citizens qualified electors who voted at the last general election of the municipality, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system, and except in the case of a school district, the levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; provided, however, that such questions shall not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such question shall be filed thirty days prior to the date of such election. A school district may levy a tax for the establishment,

maintenance, and conduct of a public recreation system pursuant to subsection 4 of section 57-15-14.3.

\* SECTION 94. AMENDMENT. Section 54-10-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports. The state auditor, by his duly appointed deputy auditors or other authorized agents, shall audit, at least once every four years, except as provided in this section or otherwise by law, the official financial records, accounts, and proceedings of the following governing bodies and officials of the following political subdivisions:

1. Municipalities.
2. Park districts.
3. School districts.
4. Firemen's relief associations.
5. Airport authorities.
6. Public libraries.
7. Water resource districts.
8. Garrison Diversion Conservancy District.
9. Rural fire protection districts.
10. Special education districts.
11. Vocational education centers.
12. Correction centers.
13. Recreation service districts.
14. Weed boards.

Audits may be conducted at more frequent intervals if the state auditor, in his discretion, deems it advisable. The state auditor may in lieu of conducting an audit every four years require annual reports from school districts with less than one hundred enrolled students, municipalities with less than three hundred population based on the latest federal census, and other political subdivisions subject to the provisions of this section, or otherwise provided by law, with less than fifty thousand dollars of annual receipts. The reports shall contain such financial information as the state auditor may request. The state auditor may also make such additional examination or audit as he deems necessary in addition to

\* NOTE: Section 54-10-14 was also amended by section 2 of Senate Bill No. 2158, chapter 561.

such report. When a report is required in lieu of an audit, the state auditor upon receiving a petition containing the signatures of not less than ten percent of the qualified electors of the political subdivision voting for the office of governor at the preceding general election, shall conduct an audit of such political subdivision's books, records, and financial accounts.

The governing board of any political subdivision may provide for an audit annually by a certified public accountant or licensed public accountant, and such report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. The number of copies as requested by the state auditor of such audit reports shall be filed with the state auditor by the certified public accountant or licensed public accountant making such audit at the time that the report of audit is delivered to said political subdivisions, and the governing board of such subdivision shall not pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing boards and officers of such subdivisions disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures, or illegal actions are corrected and fees for such audits, so resumed, shall be paid in accordance with this section. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to the political subdivisions in making and otherwise preparing the reports of audits herein provided for. All fees for the audits herein provided shall be paid by the subdivision audited to the state treasurer and by him credited to the general fund of the state.

**SECTION 95. AMENDMENT.** Section 54-10-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-10-15. Audits of municipal agencies and school districts by order of governor or upon petition.** When so ordered by the governor of this state, or on petition of thirty-five percent of the qualified electors of any school district or city for which audits are not provided in section 54-10-14, or at the request of the chairman or governing board of any such political subdivision, the state auditor shall, through his deputy auditors or other authorized persons, audit the records of the governing body and the books, records, and financial accounts of the clerk or auditor thereof, as the case may be. Fees for such audits shall be paid in accordance with the provisions of section 54-10-14 to the state treasurer, and by him credited to the general fund of the state.

**SECTION 96. AMENDMENT.** Section 54-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-03. Disbursement of funds - Issuance of bonds. The parties to such agreement may provide for disbursements from public funds, including funds already raised to buy real estate for public buildings, proceeds of bonds issued pursuant to chapter 21-03, and other proper funds or properties already on hand, to carry out the purposes of the agreement. The total amount of bonds issued by a county and a city under this section shall be in proportion to the joint usage of the building by the county and the city and shall also consider the tax base of the county and the tax base of the city. When a county and a city wholly within the county boundaries propose to issue bonds for the purpose of a building for their joint use, the governing body of the county may submit to its qualified voters the proposition of issuing bonds in the total amount required to be borrowed for the building, under an initial resolution and ballot stating the maximum total principal amount of the bonds and the maximum principal amount thereof for which the city shall be obligated. In this event the governing body of the city shall adopt an ordinance or resolution stating the maximum amount of the obligation proposed to be incurred by the city and the other matters of information required for an initial resolution for bonds under the provisions of section 21-03-09, which ordinance or resolution shall be subject to referral to the qualified electors of the city by petition of the percentage of the qualified electors referred to in chapter 40-12 and upon the conditions and in the manner therein set forth. If the issuance of the bonds is approved by the required majority of the qualified voters electors of the county voting thereon, and if the city ordinance or resolution is not referred or is approved by a majority of the qualified electors of the city voting thereon, the bonds may be issued by the county and the obligation incurred by the city. The principal amount of the obligation incurred by the city to the county, as provided in the agreement, shall be a general obligation and indebtedness of the city as referred to and limited by section 21-03-04 and by section 15 of article X of the Constitution of North Dakota, and shall be deducted from the principal amount of the bonds in determining the net indebtedness incurred by the county in the issuance thereof. The city shall levy a direct, annual, irrevocable tax for the payment of its obligation and the interest thereon as required for the payment of general obligation bonds under the provisions of section 21-03-15, which tax shall be retained by the county auditor in the sinking and interest fund for the county bonds as provided in section 21-03-41. Each payment of principal, interest, and premium, if any, due with respect to the county bonds shall be the obligation of the city in the proportion that the original principal amount of the city's obligation bears to the original principal amount of the bonds, for the purpose of ascertaining the amount of net indebtedness of the city and the county outstanding at any time, of determining the amounts of taxes required to be assessed and collected annually by the city and the county for the bond sinking and interest fund, and of determining the amounts of income from the investment of the sinking and interest fund which are to be credited against the obligations of the city and county, respectively, and for all other purposes whatsoever. Nothing herein requires the city-county agreement to be

executed before the authorization of the bonds and the city's obligation thereon. The agreement when executed shall fix the relative contributions of the city and county to the capital cost of the building in a manner consistent with the maximum net indebtedness authorized to be incurred by each of them, respectively. If so provided in the agreement, the city may evidence its obligation by the issuance of general obligation bonds of the city and appropriate the proceeds of its bonds for expenditure in accordance with the terms of the agreement, and the amount of the county bonds may be reduced by the amount issued by the city. Funds other than taxes for debt service may be paid to and disbursed by such agency as may be agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement. Strict accountability of all funds and report of all receipts and disbursements shall be provided for.

**SECTION 97. AMENDMENT.** Subsection 3 of section 57-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Whenever the board of park commissioners deems it advisable to raise moneys by taxes in excess of the levy herein provided, for any purpose for which the park district is authorized to expend moneys raised by taxes, the board of park commissioners shall submit to the voters of the district the question of increasing the levy by a certain number of mills, but not to exceed fifteen mills, on the dollar of the taxable valuation of the district. When authorized by a majority of the qualified electors of the park district voting on the question at an election in which the question has been submitted, the board may increase the levy in the amount so authorized. This excess levy may be continued from year to year by action of the park board except that if a petition containing the signatures of not less than ten percent of the qualified electors of the park district, as determined by the city auditor of the municipality in which the park district is situated, is presented to the park board requesting an election on the question of continuing the excess levy, that question shall be submitted to the qualified electors of the park district at the next regular park district election. If the majority of the voters qualified electors voting at that election determine not to continue the excess levy, no further excess levy shall be made except that the election shall not affect the tax levy in the calendar year in which the election is held.

\* **SECTION 98. AMENDMENT.** Section 57-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-14. **Tax levy limitations in school districts.** The aggregate amount levied each year for the purposes listed in section 57-15-14.3 by any school district, except the Fargo school district,

- \* **NOTE:** Section 57-15-14 was also amended by section 1 of House Bill No. 1050, chapter 617.

shall not exceed the amount in dollars which the school district levied for the prior school year plus eighteen percent up to a general fund levy of seventy mills on the dollar of the taxable valuation of the district, except that:

1. In any school district having a total population in excess of four thousand according to the last federal decennial census:
  - a. There may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the qualified electors voting upon the question at any regular or special school district election.
  - b. There shall be no limitation upon the taxes which may be levied if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted to and approved by a majority of the qualified electors voting at any regular or special election upon such question.
2. In any school district having a total population of less than four thousand ~~according to the last federal decennial census~~, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.

The question of authorizing or discontinuing such specific number of mills authority or unlimited taxing authority in any school district shall be submitted to the ~~electorate~~ qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census shall be required. However, not fewer than twenty-five signatures shall be required unless the district has fewer than twenty-five qualified electors, in which case the petition shall be signed by not less than twenty-five percent of the qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district shall be determined by the county superintendent for such county in which such school is located. However, the approval of discontinuing either such authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

SECTION 99. AMENDMENT. Section 57-15-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-16. Tax levy for building fund in school districts.

1. The governing body of any school district shall levy taxes annually for a school building fund, not in excess of twenty mills, which levy shall be in addition to and not restricted by the levy limitations prescribed by law, when authorized to do so by sixty percent of the qualified electors voting upon the question at a regular or special election in any school district. The governing body of such school district may create such building fund by appropriating and setting up in its budget for such an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law. In all cases where a portion or all of the proceeds of such levy have been allocated by contract to the payment of rentals upon contracts with the state board of public school education as administrator of the state school construction fund, such levy shall be made annually by the governing body of the school district until the full amount of all such obligations is fully paid. Any portion of a levy for a school building fund which has not been allocated by contract with the state board of public school education must be allocated by the governing body pursuant to section 57-15-17. Upon the completion of all payments to the state school construction fund, such levy may be discontinued at the discretion of the governing body of the school district, or upon petition of twenty percent of the qualified electors who voted in the last school election, the question of discontinuance of the levy shall be submitted to the qualified electors of the school district at any regular or special election and, upon a favorable vote of sixty percent of the qualified electors voting, such levy shall be discontinued. Any school district, executing a contract or lease with the state board of public school education, which contract or lease requires the maintenance of the levy provided in this section, shall immediately file a certified copy of such contract or lease with the county auditor or auditors of the county or counties in which such school district is located. The county auditor or auditors shall register such contract or lease in the bond register in substantially the manner provided in section 21-03-23. Upon the filing of such contract or lease with the county auditor or auditors, the school district shall be without power to discontinue such levy and such levy shall automatically be included in the tax levy of such school district from year to year by the county auditor or auditors until a sufficient sum of money has been collected to pay to the state treasurer for the

retirement of all obligations of such school district with the state board of public school education.

2. The school board of any school district, in levying taxes for a school building fund as provided for in subsection 1, shall specify on the ballot the number of mills to be levied, and may in its discretion submit a specific plan for which such fund shall be used. The plan shall designate the general area intended to be served by use of such fund. The area intended to be served shall be described in the plan but need not be described in the building fund ballot. After approval of the levy and the plan no change shall be made in the purpose of expenditure of the building fund except that upon a favorable vote of sixty percent of the qualified electors residing in any specific area intended to be served, material changes may be made in such plan as it affects such area to the extent such changes do not conflict with contractual obligations incurred. The provisions of this section and of subsection 1 of section 57-15-17 in regard to the purpose for which the building fund may be expended shall not apply to expenditures for major repairs.

\* SECTION 100. AMENDMENT. Section 57-15-22.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-22.2. Levy of taxes for township legal contingency fund. Upon presentation of a petition signed by twenty-five percent of the qualified electors in an organized or unorganized township voting in the last gubernatorial election, the governing body of an organized township or the board of county commissioners, for unorganized townships, may call a special election for the purpose of voting on the question of authorizing an excess levy on property within the township for the current year and not to exceed four succeeding years, or may submit the question to the voters qualified electors at the next regular township election, for organized townships, or at the next regular election, for unorganized townships. If a special election is called, the election shall be held not later than September first of the year in which the tax is to be levied, and the election shall be conducted as other elections of the political subdivision are conducted. The levy permitted by this section shall be in addition to all other levies authorized by law and shall be in an amount not to exceed ten mills on the taxable value of property in the township for not to exceed five years. Revenues from the levy shall be deposited in a special fund in the township or county treasury known as the legal contingency fund. Revenue in the fund may be used only for purposes of expenses of legal actions authorized or entered into by the governing body of the township or the county, on behalf of unorganized townships. If sixty percent of all votes cast on the question of authorizing the excess levy of taxes for the legal contingency fund are in favor of the excess levy, it shall be authorized and the county auditor shall extend such excess levy upon the tax list with other taxes. Upon

\* NOTE: Section 57-15-22.2 was also amended by section 141 of Senate Bill No. 2086, chapter 82.

expiration of any mill levy authorized by this section the governing body of the township or county may, by resolution, transfer any unobligated balance in the legal contingency fund to the general fund of the township or county.

**SECTION 101. AMENDMENT.** Section 57-15-26.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-26.3. General tax levy of fire protection districts.** A rural fire protection district may levy a tax in accordance with chapter 18-10 not exceeding five mills on the taxable valuation of property in the district except upon resolution adopted by the board of directors after receipt of a petition by not less than twenty percent of the qualified electors residing within the district, the levy may be made in an amount not exceeding ten mills.

**SECTION 102. AMENDMENT.** Section 57-15-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-44. City tax levy for acquiring real estate for public building.** The governing body of any city may levy taxes annually, not exceeding the limitation in subsection 22 of section 57-15-10 for a fund which shall be used for the purpose of acquiring real estate as a site for public buildings, construction of public buildings, renovation and repair of public buildings, and the furnishing of public buildings, or for a city's participating share in urban renewal programs. The tax is to be levied, spread, and collected in the same manner as are other taxes in the city. Whether the levy shall be discontinued shall be submitted to the voters qualified electors at the next regular election upon petition of twenty-five percent of the qualified electors voting in the last regular city election, the petition to be filed not less than sixty days before the election. If the majority of the qualified electors vote to discontinue the levy, it may not again be levied without a majority vote of the qualified electors at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

**SECTION 103. AMENDMENT.** Section 57-15-50 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-50. Levy authorized for county ambulance service.** Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax not exceeding the limitation in subsection 23 of section 57-15-06.7, for the purpose of subsidizing county ambulance services; provided, that this tax shall be approved by a majority of the voters qualified electors of the county voting at a regular or special countywide election. The county may budget, in addition to its annual operating budget for subsidizing ambulance service, no

more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated ambulance sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent ambulance sinking fund shall be in addition to the annual operating budget for subsidization, but the total of the annual operating budget and the annual ten percent ambulance sinking fund shall not exceed the approved mill levy.

**SECTION 104. AMENDMENT.** Section 57-15-51 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-51. Levy authorized for city ambulance service.** Upon petition of ten percent of the number of qualified electors of the city voting in the last election for governor or upon its own motion, the governing body of each city in this state shall levy annually a tax of not to exceed five mills upon its taxable valuation, for the purpose of subsidizing city ambulance services; provided, that such tax shall be approved by a majority of the voters qualified electors of the city voting at a regular or special city election. Whenever a tax for county ambulance services is levied by a county, any city levying a tax for, or subsidizing city ambulance services, shall upon written application to the county board of such county be exempted from such county tax levy. The city may set aside, as a depreciation expense, up to ten percent of its annual ambulance service operating or subsidization budget in a dedicated ambulance sinking fund, deposited with the auditor for replacement of equipment and ambulances. The ten percent ambulance sinking fund may be in addition to the actual annual ambulance budget but the total of the annual ambulance budget and the annual ten percent ambulance fund shall not exceed the approved mill levy.

**SECTION 105. AMENDMENT.** Section 57-15-51.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-51.1. Levy authorized for township ambulance service.** Pursuant to a vote of sixty percent of the qualified electors voting at the annual township meeting, or at a special election called for that purpose upon petition of fifty percent of the number of qualified electors of the township voting in the last election for governor, the board of township supervisors shall levy annually a tax approved by the ~~electorate~~ qualified electors not exceeding the limitation in subsection 7 of section 57-15-20.2 for the purpose of subsidizing township ambulance service.

\* **SECTION 106. AMENDMENT.** Subsection 3 of section 57-15-56 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The levy authorized by this section shall be imposed or removed only by a vote of at least sixty percent of the ~~electorate~~ qualified electors of the county or city

\* **NOTE:** Section 57-15-56 was also amended by section 1 of House Bill No. 1214, chapter 621.

directing the governing body to do so. The governing body shall put the issue before the people qualified electors either on its own motion or when a petition in writing, signed by qualified electors of the county or city equal in number to at least ten percent of the total vote cast in the county or city for the office of governor of the state at the last general election is presented to said governing body.

**SECTION 107. AMENDMENT.** Section 57-15-57 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-57. Levy for county welfare.** The board of county commissioners, when authorized by sixty percent of the qualified electors voting on the question in a regular election or special election called by the county commissioners, may levy an annual tax not exceeding the limitation in subsection 26 of section 57-15-06.7, for county welfare purposes. The proceeds of this levy shall be used solely and exclusively for county welfare purposes, as determined by the county social service board. The levy may be discontinued at the discretion of the county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy shall be submitted to the qualified electors of the county at any regular or special election and, upon a favorable vote of sixty percent of the qualified electors voting, the levy shall be discontinued.

**\* SECTION 108. AMENDMENT.** Section 57-16-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-16-04. Increase may be for five years - Extension - Discontinuance.** The governing board of the school district may submit the question of authorizing an excess levy for the current year and not to exceed four succeeding years. The notice of election shall give the year or years for which authorization is sought for an excess levy as well as the percentage of excess which is to be voted upon. Prior to the termination of the excess levy, such levy may be extended for a term not to exceed the original term of the increase upon the unanimous approval by the governing board of the school district, and further extensions may be made for the same number of years prior to each termination date upon the unanimous approval of the governing board of the school district. The question of discontinuing such extended excess levy in any school district shall be submitted to the ~~electorate~~ qualified electors at the next regular election upon the filing with the school board of a petition containing the signatures of not less than ten percent of the qualified electors of the district as determined by the county superintendent for such county in which such school is located; provided, however, that the approval of discontinuing such extended excess levy shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in section

**\* NOTE:** Section 57-16-04 was also amended by section 8 of Senate Bill No. 2065, chapter 209.

15-53.1-22 for elections for approval of school district reorganization plans.

\* SECTION 109. AMENDMENT. Section 58-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-01. Organization of township - Petition - Election. If twenty-five percent of the qualified electors who voted for governor in the last general election of a congressional township which has taxable valuation of more than twenty thousand dollars and which contains twenty-five or more ~~legal voters~~ qualified electors petition the board of county commissioners for the organization of the congressional township into a civil township, the board of county commissioners shall then submit the question whether said township shall be organized to the qualified electors in the congressional township. If twenty-five percent of the qualified electors who voted for governor in the last general election of two or more neighboring congressional townships which have an aggregate taxable valuation of more than twenty thousand dollars and which contain an aggregate of twenty-five or more ~~legal voters~~ qualified electors petition the board of county commissioners for the organization of the congressional townships into a civil township, the board of county commissioners shall then submit the question whether said township shall be organized to the qualified electors in the congressional townships. Thirty days' published notice in at least one newspaper of general circulation in the township shall be given of the election. If a majority of the votes cast approve of organization, the township shall then be organized, and if the petitions filed for organization did not designate a name, the board of county commissioners shall select one.

SECTION 110. AMENDMENT. Section 58-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-08. Fractional township - Annexing to another township. The board of county commissioners may attach a fractional congressional township to an adjoining township within the same county or divide it between two or more townships within the same county upon the petition of a majority of the ~~legal voters~~ qualified electors to be affected.

SECTION 111. AMENDMENT. Section 58-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-09. Annexing parts of township divided by river from rest of township. If rivers, lakes, or creeks divide a civil or congressional township and make it inconvenient to do township business, the board of county commissioners of the county in which the township is located may annex that part of the township segregated by such river, lake, or creek to an adjoining township in the same county upon the petition of not less than two-thirds of the

\* NOTE: Section 58-02-01 was also amended by section 7 of House Bill No. 1054, chapter 236.

legal voters qualified electors residing in the part of the township so segregated.

SECTION 112. AMENDMENT. Section 58-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-10. Division of township in which there are two or more ~~municipalities~~ cities. The board of county commissioners may divide a township in which there are two or more cities, each containing two hundred or more inhabitants, upon the petition of a majority of the legal voters qualified electors to be affected. If the division is ordered, it shall be made in the manner best suited to the convenience of the territory concerned.

SECTION 113. AMENDMENT. Section 58-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-11. Uniting congressional townships into civil townships. The board of county commissioners may unite two or more congressional townships into one civil township or may add not more than three congressional townships to any congressional township already organized as a civil township when petitioned to do so by a majority of the legal voters qualified electors to be affected.

SECTION 114. AMENDMENT. Section 58-02-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-21. Petition for and notice of application for division - Publication. A petition for the division of a township as provided in section 58-02-19, addressed to the board of county commissioners and signed by a majority of the legal voters qualified electors residing within the proposed township may be presented to the board at any regular meeting thereof. Notice of the time and place of the hearing on such petition shall be given at least thirty days prior to such hearing by the publication of such notice at least three times in the newspaper in which the proceedings of the board of county commissioners are published, or if there is no such newspaper, the notice shall be posted in at least three public places in the proposed new township and in at least three public places in the remainder of the township affected by the division. One of such notices shall be posted at the place where the last township election was held for the township from which the separation is sought.

SECTION 115. AMENDMENT. Section 58-02-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-25. Dissolution of township - Petition - When considered by superior supervisors or board of county commissioners - Hearing. If a petition asking for the dissolution of an organized civil township

and setting forth the reasons therefor, and signed by one-half of the legal veterans qualified electors of such township, is presented to the board of township supervisors at least ten days prior to the second Tuesday in March in any year, the petition shall be considered by such board at its regular meeting on the second Tuesday in March in such year. If the legal veterans qualified electors of an organized township, as determined by the board of county commissioners, do not exceed five in number, said board of county commissioners, upon the petition of any legal veteran qualified elector of such township, or upon its own motion, without any such petition, may dissolve such township, by filing in the office of the county auditor its resolution to dissolve such township. Following the filing of the resolution by said board of county commissioners, the county auditor shall designate a time and place for a public hearing of all qualified electors who are owners of any interest in real property assessed for taxation in the township, and who reside within the boundaries of the township as fixed by the order of the board of county commissioners. Notice of the hearing shall be given by publication once each week for two consecutive weeks in a newspaper of general circulation in the township, the last publication appearing at least seven days prior to the hearing. The notice shall be addressed to all qualified electors who are owners of any interest in real property assessed for taxation in the township or who are residing within the boundaries of the township. The county auditor shall also notify all owners of property within the township by mail at least two weeks in advance of the proposed dissolution hearing.

**SECTION 116. AMENDMENT.** Section 58-02-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-02-32. Proof of signatures on petition.** The fact that any petition required under any provision of this chapter is signed by the required number of signers residing in the territory described therein may be proved by the affidavit of any legal veteran qualified elector residing in the territory and having knowledge of the facts.

**\* SECTION 117. AMENDMENT.** Section 58-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-04-05. Organization of annual or special meetings.** The qualified electors present on the day of the annual or special meeting shall be called to order by the township clerk, or, if he is not present, the veterans qualified electors may elect by acclamation one of their number to act as chairman for the purpose of calling the meeting to order and to act as clerk after the selection of a moderator. The veterans qualified electors shall elect by acclamation three of their number as judges, and such judges shall be sworn and shall act as the judges of the qualifications of township the qualified electors of the township. The qualified electors shall proceed to choose one of their number to preside as moderator of the meeting. The clerk of the township, if present, or in his absence, the clerk of the

**\* NOTE:** Section 58-04-05 was also amended by section 1 of House Bill No. 1352, chapter 660.

meeting, shall keep full minutes of its proceedings in which he shall enter at length every order, direction, rule, and regulation made by the meeting. Meeting and voting hours of an annual or special meeting shall be optional with the township board from one p.m. to five p.m. or from seven p.m. to ten p.m., provided proper notice is given under the provisions of this chapter. However, for a meeting beginning at one p.m., the township board, either upon its own resolution, or upon receipt of a petition signed by twenty percent of the qualified electors of the township voters as determined by the total number who voted in the last township election, shall extend the meeting and voting hours to eight p.m. The positions of moderator, clerk, and the three judges shall be separate and distinct positions and no such positions shall be held by the same person. The moderator, clerk, and the three judges each shall be entitled to a salary of eight dollars per day for each day actually expended in the performance of their duties. Such salary shall be paid out of township funds made available for such purpose. However, in those townships in which the offices of township clerk and treasurer have been merged, the person holding such office shall receive compensation as provided by law as township treasurer only, and shall not receive additional compensation for his duties as clerk.

**SECTION 118. AMENDMENT.** Section 58-13-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-13-07. Pounds may be established in unorganized or dissolved townships. Upon the petition of a majority of the legal voters qualified electors of an unorganized township or a township dissolved as a civil township, the board of county commissioners shall have the same power to establish and regulate pounds as the qualified electors and supervisors of an organized township.

**SECTION 119. AMENDMENT.** Section 58-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-15-01. **Petition for policeman in townsite - Contents of petition.** If sixty percent of the qualified electors residing within the limits of any platted unincorporated townsite shall petition the board of supervisors of the township in which it, or the greater portion thereof, is situated, praying for the appointment of a policeman to serve as a night watchman in such townsite and for the levy of a tax on the property therein to pay such officer, and stating the period for which the appointment is to be made, and the name of the townsite for which such police officer is to be appointed, the board of township supervisors shall appoint such officer for the period designated in the petition and fix his compensation.

**SECTION 120. AMENDMENT.** Section 61-04.1-23 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04.1-23. Weather modification authority created by petition. A weather modification authority shall be created by resolution and five commissioners appointed thereto for ten-year terms of office, by the board of county commissioners. A board of county commissioners shall not adopt a resolution creating an authority until it has received a valid petition signed by at least fifty-one percent of the qualified electors of a county, as determined by the vote cast for the office of governor at the last preceding general election. The board of county commissioners shall appoint five residents of the county as weather modification authority commissioners from those names set forth in the petition and designated by the petitioners to be appointed weather modification authority commissioners. In the event any one of the five candidates named in the petition to be appointed weather modification authority commissioner is unable or refuses for any reason to accept appointment as commissioner, or is disqualified by not meeting residence requirements, as an a qualified elector in the county, the board of county commissioners shall name its own appointee for a ten-year term of office in place of any disqualified candidate selected by the petitioners. If any weather modification authority commissioner submits his resignation in writing to the board of county commissioners or becomes unable or disqualified for any reason, after accepting office, the board of county commissioners shall name its appointee as a commissioner to the weather modification authority. All vacancies occurring otherwise than by expiration of term of office shall be filled for the unexpired term.

Any weather modification authority created pursuant to this section shall expire ten years after the date of the initial appointment of the commissioners thereto. Any unexpended funds remaining in the name of the weather modification authority, after all proper bills and expenses have been paid, shall be transferred into the county general fund by the officers of the weather modification authority on or before the ten-year termination date provided by this section. However, all unexpended funds remaining in the name of the weather modification authority, after all proper bills and expenses have been paid, shall remain in the name of the weather modification authority if the board of county commissioners of such county by resolution creates a weather modification authority and all its powers in accordance with section 61-04.1-27.

Nothing in this section shall prevent continuation or reinstatement of a weather modification authority, provided the authority is renewed for another ten years by petition of the qualified electors in the same manner as the initial weather modification authority was created by petition of qualified electors as provided for in this chapter.

In the event more than one petition is filed with the board of county commissioners on or about the same time, the petition with the highest percentage of the qualified county electors of the county voting for the office of governor at the last preceding general election shall be selected by the board of county

commissioners. However, the petition with the highest percentage must have the signatures of at least forty percent of the qualified electors in the county and the sum total of all qualified electors signing all petitions filed must equal at least sixty percent of the qualified electors in the county. In no case shall the name of the same qualified elector appear on two or more petitions, but in such event, the name shall be stricken from both petitions.

**SECTION 121. AMENDMENT.** Subsection 4 of section 61-04.1-24 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A heading: "Committee for Petitioners", followed by this statement: The following qualified electors of (name of county), state of North Dakota, are authorized to represent and act for us, and shall constitute the "Committee for the Petitioners" in the matter of this petition and all acts subsequent thereto.

**SECTION 122. AMENDMENT.** Section 61-04.1-29 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-04.1-29. Creation of weather modification authority by election.** When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the establishment of a weather modification authority is presented to the board of county commissioners, not later than forty-five days prior to the next countywide election, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by a majority of the votes cast, the board of county commissioners shall, by resolution, establish a weather modification authority as described in section 61-04.1-23 with all powers set out in this chapter, including the power to certify a tax levy as provided by section 61-04.1-26.

**SECTION 123. AMENDMENT.** Section 61-04.1-30 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-04.1-30. Abolishment of weather modification authority by election.** When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for governor in the last preceding gubernatorial election, requesting an election upon the abolishment of a weather modification authority as created in sections 61-04.1-27 and 61-04.1-29 is presented to the board of county commissioners, not later than forty-five days prior to the next countywide election, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by a majority of the votes cast, the board of county commissioners shall abolish the weather modification authority as of December thirty-first following

the election. All unexpended funds remaining in the name of the weather modification authority, after all proper bills and expenses have been paid, shall be deposited in the general fund of the county.

SECTION 124. AMENDMENT. Section 61-24-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-24-03. Election of directors of the Garrison Diversion Conservancy District. A director of the Garrison Diversion Conservancy District shall be nominated and elected in each county in the district. Any person who is a resident and qualified elector of the county who aspires to the office of director of the Garrison Diversion Conservancy District shall, not more than seventy days or less than fifty-five days and before four p.m. of the fifty-fifth day prior to any primary election preceding a general election at which a director of the district is to be elected, present to the county auditor a petition giving his name, post-office address, the title of the office "Director of the Garrison Diversion Conservancy District", and containing the signatures of not less than fifty nor more than three hundred qualified electors of the county to which each signer has added his residence with street number, if any, and the date of signing.

The petition shall be accompanied by an affidavit substantially as follows:

STATE OF NORTH DAKOTA,  
County of -----

I, -----, being duly sworn, depose and say that I reside in the county of ----- and State of North Dakota; that I am a qualified ~~veter~~ elector therein; that I am a candidate for nomination to the office of director of the Garrison Diversion Conservancy District to be chosen at the primary election to be held on the ----- day of -----, 19---, and I do hereby request that my name be printed upon the no-party primary election ballot as provided by law, as a candidate for said office.

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

-----  
Notary Public, North Dakota

Upon receipt of the petition the county auditor shall without fee place the name of the aspirant on the no-party primary election ballot as a candidate for the aforesaid office of director. The two candidates receiving the highest number of votes if more than two are running shall be nominated.

The names of the candidates so nominated at the primary election shall be placed on the no-party ballot at the ensuing general election and the candidate receiving the highest number of votes shall be duly elected.

At the primary and general elections votes shall be canvassed, returned certified, and certificates of nomination and election issued in the manner provided by law for the nomination and election of county officers.

**SECTION 125. AMENDMENT.** Section 61-24.2-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-24.2-14. Addition of other governmental entity to district.** Upon filing with the county commission a petition containing the signatures of ten percent of the ~~eligible~~ qualified electors residing in the governmental entity, voters within that governmental entity may join the district upon a favorable vote of sixty percent majority of the ~~eligible~~ qualified electors residing therein, exclusive of any cities within the entity, provided that the governing body's application for membership be approved by the board of directors of the district. The county auditor of each county shall certify the results of the election to the secretary of state in the manner provided by section 16.1-15-25. The board of directors, as a condition of approval of such application, may require the levy of such taxes within said governmental entity as may be equitable to equalize the burden of such governmental entity with the obligations paid or assumed by the other governmental entities in the district. Such governmental entity is hereby authorized to levy such taxes as may be necessary to carry out its part of the agreement for becoming a part of the district, which levy shall be in addition to the amount which may otherwise be legally levied by that governmental entity.

Approved March 14, 1985

## CHAPTER 236

HOUSE BILL NO. 1054  
(Legislative Council)  
(Interim Elections Committee)

### ELECTION OFFICIALS

AN ACT to amend and reenact sections 11-11-14, 16.1-05-01, subsection 2 of section 16.1-05-03, sections 16.1-05-04, 16.1-05-05, 16.1-06-16, and 58-02-01 of the North Dakota Century Code, relating to the appointment, duties, and compensation of election officials, term of office for election inspectors, distribution of election supplies, and the instruction provided by the county auditor.

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

**SECTION 1. AMENDMENT.** Section 11-11-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-11-14. Powers of board of county commissioners.** The board of county commissioners shall have the following powers:

1. To institute and prosecute civil actions for and on behalf of the county and in its name.
2. To make all orders respecting property of the county.
3. To levy a tax not exceeding the amount authorized by law.
4. To liquidate indebtedness of the county.
5. To construct and repair bridges and to open, lay out, vacate, and change highways in the cases provided by law. But the board may not contract for the construction of bridges costing more than one hundred dollars without first complying with the provisions of chapter 24-08.
6. To establish election precincts in the county in areas outside the boundaries of incorporated cities except as provided in chapter 16.1-04.

7. To appoint the inspectors of election in unorganized townships-
- 8- To equalize the assessments of the county in the manner provided by law.
- 9- 8. To furnish to the county officers the necessary telephone, postage, telephone and telegraph tolls, and all other things necessary and incidental to the performance of the duties of their respective offices to be paid out of the county treasury.
- ~~10-~~ 9. To furnish a fireproof safe in which to keep all the books, records, vouchers, and papers pertaining to the business of the board.
- ~~11-~~ 10. To dispose of property of the county in the manner provided in chapter 11-27.
- ~~12-~~ 11. To purchase lands in lieu of those sold.
- ~~13-~~ 12. To grant to any person the right of way for the erection of telephone lines, electric light systems, or gas or oil pipeline systems over or upon public grounds, county streets, roads, or highways.
- ~~14-~~ 13. To establish a garbage and trash collection system encompassing all or any part of the territory of the county. The words "garbage and trash collection system" shall include the operation and maintenance of one or more sanitary landfill sites, or other types of processing sites for the disposal of trash and garbage. The board may operate such system in cooperation with any one or more political subdivisions of this or any other state in accordance with the provisions of chapter 54-40. The board may borrow money by issuing certificates of indebtedness, repayable from fees or special assessments, or both, which may be charged to the proper parcels of land or to persons receiving the direct benefits of the garbage and trash collection system, or repayable in such other manner as may be provided by law, in order to purchase the initial equipment and land necessary for operation of the system. If the board of county commissioners resolves to establish such a system, the expenses of establishing, operating, and maintaining it may be financed by fees charged to persons receiving direct benefits or by special assessment against the parcels of land properly charged therewith, or by both such fees and assessments. The assessment may be made, published, altered, appealed from, and confirmed under the procedures set forth in chapter 11-28.1.
- 15- To do and perform such other duties as are or may be prescribed by law-

- ~~16-~~ 14. To maintain, in its discretion, all public roads and private highways and roads that are being used as part of regularly scheduled public schoolbus routes.
- ~~17-~~ 15. To expend county funds for the purpose of participating in an organization of county governments pursuant to section 11-10-24. This subsection ~~shall not be construed as authorizing~~ does not authorize a mill levy, and the limitations embodied in section 57-15-06 ~~shall~~ apply to expenditures under this subsection, which expenditures shall be from the county general fund.
- ~~18-~~ 16. To expend county funds to finance in part or entirely for county employees a group insurance program for hospital benefits, medical benefits or life insurance, and a group retirement program through either the state retirement program or a private company.
17. To do and perform any other duties prescribed by law.

SECTION 2. AMENDMENT. Section 16.1-05-01 of the North Dakota Century Code is hereby amended and reenacted to read 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 shall have an election board in attendance. The election board shall consist of an election inspector and two election judges.

1. The election inspector shall be selected in the following manner:
  - a. 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 shall fill all vacancies occurring in those offices.
  - b. ~~In all other areas, the board of county commissioners shall appoint the election inspectors and shall fill all vacancies occurring in those offices.~~
  - c. In all other precincts, the county auditor, with the approval of the majority of the board of county commissioners, shall appoint the election inspectors and shall fill all vacancies occurring in those offices. The selection must be made on the basis of the inspector's knowledge of the election procedure.
  - d. The election inspector shall serve a term of two years. If an inspector fails to appear for any training session without excuse, the office is deemed vacant and the vacancy shall be filled for that

election by the auditor. Prior to the next election, the appropriate appointing body or county auditor shall fill the vacancy for the remainder of the term.

- Except in the case of special elections, all appointments required to be made under this section shall be made at least twenty-one days preceding an election. The governing body or board shall notify the county auditor of the appointments, and of any vacancies filled, within twenty-four hours of its action.
2. The election judges for each precinct shall be the precinct committeemen receiving the largest number of votes at the precinct caucus at which they were elected, and representing the two parties which cast the largest and next largest number of votes in the state at the last general election. If for any reason a precinct committeeman does not wish to serve as an election judge, he shall appoint from his precinct a member of his party to serve as election judge. Should such appointment not be made, the position shall be filled by appointment by the district party chairman. Each election judge shall be given a certificate of appointment signed by the chairman of the district committee of his party. The district committee chairman shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least two weeks prior to the primary, general, or special election. If this notice is not received within the time specified in this section, ~~the election inspector~~ county auditor shall appoint the judge ~~no later than one week prior to the election.~~ If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that either of the election judges or any poll clerk is disqualified under the provisions of this chapter, the inspector shall remove such judge or clerk at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge or clerk removed. If the disqualified judge or clerk had taken the oath of office as prescribed in this chapter, the inspector shall place such oath or affidavit before the state's attorney of the county.
  3. Poll clerks shall be appointed by the election judges. Each election judge may appoint one poll clerk. However, in voting precincts or districts in which over three hundred votes are cast in any election, election judges may each appoint one additional poll clerk. The appointment of poll clerks by the election judges shall be made on the basis of the prospective clerks' knowledge of the election procedure and ability to write legibly. All election precincts that use voting machines as authorized in chapter 16.1-06 may, in addition to all other

authorized poll clerks, have as many as two additional poll clerks appointed by each election judge. The additional poll clerks shall be appointed on the same basis as other poll clerks.

**SECTION 3. AMENDMENT.** Subsection 2 of section 16.1-05-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. At lease fifteen Not more than twenty days, but at least three days before each primary, general, or special statewide or legislative district election, each county auditor or his the auditor's designated representative shall conduct a course one or, at the auditor's option, two training sessions on election laws and election procedures for all members of each election board officials in the county. The course session shall be conducted at such place or places throughout the county as the county auditor deems determines to be necessary. Attendance at the course session is mandatory for members of the election board and optional for poll clerks at the discretion of unless the board of county commissioners of each the county, and the determines that the poll clerks in that county may not attend. The county auditor shall notify the members of the election boards, and poll clerks if applicable, of the time and place of the course. The county auditor shall also notify and the state's attorney of the time and place of the course session. The state's attorney shall attend all sessions of the course to give advice on election laws. The county auditor shall invite the district chairman in that county representing any political party casting at least five percent of the total votes cast for governor at the last election to attend the session at the chairman's own expense. On the date of such course or courses, the county auditor may deliver to all election inspectors at such meeting the official ballots, suitable manila envelopes, and all other materials as provided in chapter 16.1-06. Each Except as otherwise provided in this section, each person attending the course or courses provided for herein shall be compensated as hereinafter provided in section 16.1-05-05. Poll clerks attending the course at the discretion of the board of county commissioners shall be reimbursed for expenses and mileage and compensated for performance of election duties as are members of election boards pursuant to section 16.1-05-05.

**SECTION 4. AMENDMENT.** Section 16.1-05-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
- 2- 3. The election inspector shall assign two poll clerks, one from each political party represented on the election board, to perform the function of maintaining the pollbooks. The two designated poll clerks shall each maintain a pollbook. Each pollbook shall contain the name and address of each person voting at the precinct, and shall be arranged in the form and manner prescribed by the secretary of state.
- 3- 4. It shall be the duty of the The members of the election board to shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector.
- 4- 5. Each member of the election board shall remain 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.
- 5- 6. All members of the election board shall distribute ballots and other election materials to electors. Both election judges shall together give any assistance requested by electors in marking ballots or operating voting machines. The election officers shall instruct voters on how to open and close voting machines and how to move the levers to cast and change votes. The election inspector shall supervise the conduct of the election at the polling place, and shall assign duties so as to equally and fairly include both political parties represented on the election board.
- 6- 7. Each member of the election board shall maintain order in the polling place.
- 7- 8. All members of the election board at each precinct using an electronic voting system shall, before the polls are open, verify that each voting device in that precinct contains a ballot label that correctly lists the names of the candidates legally on the ballot for that precinct and verify that the booklets are all identical in arrangement.

**SECTION 5. AMENDMENT.** Section 16.1-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-05-05. Compensation of election officers - Commissioner of labor to certify minimum wage applicable to election officials - Secretary of state to certify amount to county auditors. The state commissioner of labor, thirty days before each statewide primary, general, or special election, shall determine the state minimum wage applicable to election inspectors, election judges, poll clerks, or any other private individual who performs duties in the election process, and shall certify the amounts to the secretary of state. The secretary of state shall then certify the amounts to the county auditors. As required by this title, the county auditors shall pay at least the amounts so determined to the relevant election officials, but in no event shall the compensation exceed fifty dollars for each election. Members of the election board and poll clerks who attend the training sessions provided by section 16.1-05-03 shall be paid at least the wage determined by the state commissioner of labor for the hours in attendance in the session in addition to necessary expenses and mileage; however, for poll clerks, and for judges the combined wages for the training sessions and election may not exceed sixty dollars or any greater amount as determined by the board of county commissioners. State, county, or other election officials who are required to incur expenses while performing duties in the election process shall be reimbursed only for their actual and necessary expenses and mileage in the performance of those duties, in accordance with sections 54-06-09, 44-08-04, and 11-10-15. Other persons performing election duties shall also be paid for expenses and mileage in like manner and amounts. Members of election boards who attend the training sessions provided by section 16.1-05-03 shall be paid twenty-five percent more than the minimum wage determined in this section, during the time spent in the performance of their election duties; ~~however, they shall receive only their actual and necessary expenses and mileage for attendance at the training session.~~

**SECTION 6. AMENDMENT.** Section 16.1-06-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-06-16. County auditor to provide and distribute ballots - Other election supplies delivered at same time. For each election precinct in his the county, the county auditor shall provide the number of ballots he deems the auditor determines to be necessary. At least fifteen days before any election, each Each county auditor shall:

1. Have the ballots printed at least fifteen days prior to the election, and the same may be inspected by any person at the auditor's office.
2. Deliver to the inspector in each precinct at least three days but not more than fifteen days prior to the election the number of ballots and blank forms of pollbooks, blanks

for election returns with the proper captions, forms of oaths and certificates, and tally sheets necessary to carry out the provisions of this title.

\* SECTION 7. AMENDMENT. Section 58-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-02-01. Organization of township - Petition - Election. If twenty-five percent of the electors who voted for governor in the last general election of a congressional township which has taxable valuation of more than twenty thousand dollars and which contains twenty-five or more legal voters petition the board of county commissioners for the organization of the congressional township into a civil township, the board of county commissioners shall then submit the question whether said township shall be organized to the electors in the congressional township. If twenty-five percent of the electors who voted for governor in the last general election of two or more neighboring congressional townships which have an aggregate taxable valuation of more than twenty thousand dollars and which contain an aggregate of twenty-five or more legal voters petition the board of county commissioners for the organization of the congressional townships into a civil township, the board of county commissioners shall then submit the question whether said township shall be organized to the electors in the congressional townships. Thirty days' published notice in at least one newspaper of general circulation in the township shall be given of the election. The board of county commissioners shall appoint the election officials necessary for the election. If a majority of the votes cast approve of organization, the township shall then be organized, and if the petitions filed for organization did not designate a name, the board of county commissioners shall select one.

Approved March 29, 1985

\* NOTE: Section 58-02-01 was also amended by section 109 of House Bill No. 1059, chapter 235.

## CHAPTER 237

SENATE BILL NO. 2067  
(Legislative Council)  
(Interim Elections Committee)

### BALLOT FORM

AN ACT to amend and reenact sections 16.1-06-04, 16.1-06-09, and 16.1-06-12 of the North Dakota Century Code, relating to the form of the ballot in elections.

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

\* SECTION 1. AMENDMENT. Section 16.1-06-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-06-04. Form and quality of ballots generally. All official ballots prepared under the provisions of this title for use in precincts in which voting machines or electronic voting systems are not used ~~shall~~ must:

1. Be a specific color, and the secretary of state shall prescribe a different color for each separate type of ballot used.
2. Be printed on uniform quality paper in an ink color suitable to make the ballot clearly legible.
3. Be of sufficient length to contain the names of all candidates to be voted for at such election.
4. Have the language "Vote for ----- name (or names) only" placed immediately under the name of each office.
5. Have printed thereon "Place a crossmark (X) by the name of the person for whom you wish to vote."
6. Leave sufficient space for each office to write or paste a name, or names, as the case may be, in lieu of those printed on the ballot.
7. Provide a space enclosed in a square in which the voter may designate by a cross or other mark his choice for each

\* NOTE: Section 16.1-06-04 was also amended by section 1 of Senate Bill No. 2068, chapter 246.

candidate opposite the name of such candidate, and such space shall precede or follow the candidate's name on the same line in a uniform manner.

8. Have printed thereon the following language: "All ballots, other than those used to vote absentee, must be stamped and initialed by appropriate election officials in order to be counted."

Any precinct which uses an electronic counting machine may require the use of a particular writing instrument to mark the ballot so the ballots may be properly counted.

In precincts in which electronic voting systems purchased after June 30, 1985, are used, the ballot card must contain the names of all candidates, the contents of measures as required by section 16.1-06-09, and the statements of questions to be submitted to the voters. The ballot card must otherwise be arranged in a manner and form approximating as far as possible the requirements of this section.

In precincts in which voting machines or electronic voting systems purchased before July 1, 1985, are used, the list of officers and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in a manner and form approximating the requirements of this section.

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

**16.1-06-09.** Constitutional amendments and initiated and referred measures - Placed on separate ballot - Manner of stating question - Explanation of effect of vote - Order of listing. Constitutional amendments or measures, initiated measures, and referred measures, duly certified to the county auditor by the secretary of state, or any other question or measure to be voted on, except the election of public officers at any primary, general, or special election including officers subject to a recall petition, shall be printed on a separate ballot by ballot title only and in the manner specified by the secretary of state and shall be deposited in a box separate from that provided to receive the ballots for public officers. A constitutional amendment, initiated or referred measure, or other question must, unless otherwise determined by the secretary of state, be stated in full in a legible manner on the paper ballot or the ballot card when using an electronic voting system purchased after June 30, 1985, and the ballot label when using an electronic voting system purchased before July 1, 1985. If the secretary of state concludes the amendment or measure is too long to make it practical to print in full, the amendment or measure may be printed by ballot title only and in the manner specified by the secretary of state. The ballot title shall be written by the secretary of state and approved by the attorney general. The size of type to be used on such ballots shall be specified by the secretary of state.

Immediately preceding the ballot title or the full text of the initiated or referred measure on the printed ballot, the secretary of state shall cause to be printed a short, concise statement in boldface type, which statement shall fairly represent the substance of the initiated or referred measure. The attorney general shall approve all such statements written by the secretary of state. Immediately subsequent to the foregoing statement, the secretary of state shall cause to be printed another short, concise statement of the effect of an affirmative or negative vote on the constitutional amendment or measure, initiated measure, or referred measure in terms of whether the proposal will or will not enact, amend, or repeal a portion or portions of the constitution or laws of the state of North Dakota if an affirmative or negative vote should prevail. This explanatory statement shall be drafted by the secretary of state and shall be approved by the attorney general. The words "Yes" and "No" shall be printed on the ballot at the close of the statement regarding the effect of an affirmative or negative vote, in separate lines with a square formed of black lines after each statement in which the voter may indicate by a cross or other mark how he desires to vote on the question. Where two or more amendments or questions are to be voted on, they shall be printed on the same ballot. In precincts in which voting machines ~~or electronic voting systems~~ are used, the ballot title, in the case of amendments or measures submitted by the people, or the title of the legislative bill or resolution, which shall serve as the ballot title, in the case of proposed amendments submitted by the legislative assembly, shall be set forth in full. Provided, however, in such cases where the ballot title or the title of the legislative bill or resolution is of such length to make it physically impossible to fit such titles upon voting machines ~~or electronic voting systems~~, the attorney general shall reduce such titles to a length which will allow the placing of such titles upon voting machines ~~or electronic voting systems~~, but shall fully express the purpose of such amendments or questions, and the reduced version of the titles shall be used on the voting machines ~~or electronic voting systems~~.

The measures to be submitted to the electors shall be grouped and classified as constitutional measures, initiated statutes, or referred statutes and shall 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 shall 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 shall be numbered consecutively, without regard to the various groups or classifications.

**SECTION 3. AMENDMENT.** Section 16.1-06-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-06-12. **Definitions.** As used in this title with regard to electronic voting systems:

1. "Automatic tabulating equipment" means an apparatus which automatically tabulates and counts votes recorded on ballot cards.
2. "Ballot card" means, for an electronic voting system purchased after June 30, 1985, a tabulating card containing the names of offices and candidates and the questions to be voted on, which is used in conjunction with the voting device and on which votes may be recorded. For an electronic voting system purchased before July 1, 1985, ballot card means a tabulating card on which votes may be recorded.
3. "Ballot envelope" means the envelope in which the ballot card is enclosed and upon which the names of write-in candidates may be written.
4. "Ballot label" means, for an electronic voting system purchased before July 1, 1985, the booklet or guide containing the names of offices, candidates, and questions to be voted on, which is used in conjunction with the voting device and voting card.
5. "Counting center" means the location or locations designated by the county auditor for the automatic tabulating and counting of ballots.
6. "Electronic voting system" means a system employing a voting device in conjunction with ballot labels or ballot cards and automatic tabulating equipment for the recording, tabulating, and counting of votes in an election.
7. "Voting device" means a device in which ballot cards are used in connection with a punch device for the piercing of ballots by the voter, a device for marking ballots with ink or other substance, or any other method for recording votes on ballots in a manner that the votes may be tabulated and counted by automatic tabulating equipment.

Approved March 29, 1985

## CHAPTER 238

SENATE BILL NO. 2332  
(Senator Holmberg)  
(Representative Cleveland)

## PRECINCT MAPS AT POLLS

AN ACT to amend and reenact section 16.1-06-19 of the North Dakota Century Code, relating to the posting of maps showing precinct boundaries at the polling place.

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

SECTION 1. AMENDMENT. Section 16.1-06-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places. Each county auditor shall have cards printed, in large type, containing full instructions to electors on obtaining and preparing ballots and a copy of section 16.1-01-12. He shall furnish ten such cards to the election inspector in each election precinct who, prior to the opening of the polls, shall post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least three of the cards in and about the polling place. Three of the official ballots without the official stamp thereon shall be posted conspicuously in the polling place on the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. Not less than three of such newspaper publications or copies shall be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each precinct with four copies of a map showing the election precinct's boundaries. The inspector shall, prior to the opening of the polls, post the maps at the entry to and in other conspicuous places around the polling place.

Approved March 29, 1985

# CHAPTER 239

HOUSE BILL NO. 1296  
(Representative Lindgren)  
(Senator Holmberg)

## ABSENT VOTER BALLOT APPLICATIONS

AN ACT to amend and reenact section 16.1-07-06 of the North Dakota Century Code, relating to an application for absent voter's ballot.

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

SECTION 1. AMENDMENT. Section 16.1-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-07-06. Application form.

1. Application for an absent voter's ballot shall be made on a blank furnished by the proper officer of the county, city, or school district of which the applicant is an elector, or on any blank containing the required information and in substantially the following form:

I, -----, a duly qualified elector of the township of -----, or of the ----- precinct of the ----- ward and residing at ----- in 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, hereby make application for an official absent voter's ballot to be voted by me at such election. I understand that it is a criminal offense to make a false statement in order to obtain an absentee ballot.

I have resided in my precinct for at least thirty days.  
My phone number is -----.  
Dated this ----- day of -----, 19--.

-----  
(signature of applicant)

-----  
(mailing address)

2. A qualified elector who is absent from the state is not required to file an application for an absent voter's ballot for a primary or general election if either of the following apply:

- a. The elector is a member, or spouse or dependent of a member, of the United States armed forces or merchant marine.
- b. The elector is a United States citizen living outside the United States.

If the qualified elector furnishes the county auditor with a current mailing address and the elector's local residence or precinct, the county auditor shall mail to the qualified elector a ballot with a return envelope and instructions for voting. The county auditor may maintain a list of the qualified electors receiving a ballot for the primary election and may mail those electors a ballot for the next general election.

Approved March 29, 1985



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

-----  
Notary Public, North Dakota

NOTARY SEAL

My Commission Expires -----

Approved March 27, 1985

# CHAPTER 241

SENATE BILL NO. 2145  
(Committee on Judiciary)  
(At the request of the Secretary of State)

## PRIMARY ELECTION BALLOT ELECTOR'S AFFIDAVIT

AN ACT to amend and reenact section 16.1-11-14 of the North Dakota Century Code, relating to application to place a name on the ballot in the primary election.

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

SECTION 1. AMENDMENT. Section 16.1-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-11-14. Application by other persons to place name on ballot -  
Petition - Affidavit. An application to have a name placed on the  
primary election ballot for nomination for any office designated in  
this chapter may be made by five qualified electors by presenting  
the petition required in section 16.1-11-06 or 16.1-11-11 to the  
proper official, and subscribing and filing an affidavit in  
substantially the following form:

State of North Dakota) )  
County of -----) ss.

A -----, B -----, C -----,  
D -----, and E -----, being duly sworn, each  
for himself, deposes and says that he is a qualified elector  
in the state of North Dakota, that he hereby makes application  
to have the name of ----- printed on the primary  
election ballot of the ----- party for the office  
-----, to be voted for at the primary election to  
be held on the ----- day of -----, 19---; that  
said ----- is, to the best of his knowledge,  
information, and belief, a ----- and eligible  
to hold the office of ----- under the constitution.

-----  
-----  
-----  
-----

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

-----  
Notary Public, North Dakota

NOTARY SEAL

My Commission Expires-----

However, an affidavit relating to a candidate on the no-party ballot shall not contain any reference to party affiliation. When the application is received by the proper officer, he shall place the name on the primary election ballot as a party or no-party candidate, as the case may be. The petition and affidavit provided for in this section shall not be filed without the written consent of the person to be nominated endorsed thereon.

Approved March 22, 1985

## CHAPTER 242

SENATE BILL NO. 2143  
(Committee on Judiciary)  
(At the request of the Secretary of State)

## BALLOT INSTRUCTIONS AND SPACES

AN ACT to amend and reenact subsections 5 and 8 of section 16.1-11-22 of the North Dakota Century Code, relating to voting instructions placed on a ballot and a voting space on a ballot for marking the choice of candidates.

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

SECTION 1. AMENDMENT. Subsections 5 and 8 of section 16.1-11-22 of the 1983 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

5. Immediately below the warning against voting for candidates of more than one party shall be printed: "Put a crossmark (X) opposite the name of the candidate for whom you wish to vote. To vote for a person whose name is not printed on the ballot write or paste that person's name in the blank space provided for that purpose."
8. At the side of the name of each aspirant and in a column shall be printed a square or other figure for making a crossmark or other mark. No squares or other figures shall be printed at the head of the ballot.

Approved March 29, 1985

## CHAPTER 243

SENATE BILL NO. 2141  
(Committee on Judiciary)  
(At the request of the Secretary of State)

## NAME ARRANGEMENT ON BALLOTS

AN ACT for an Act to amend and reenact section 16.1-11-27 of the North Dakota Century Code, relating to arrangement of names on ballots and voting machines.

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

SECTION 1. AMENDMENT. Section 16.1-11-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-11-27. Arrangement of names on ballots and voting machines.

1. On sample ballots, the names of candidates for each office shall be arranged alphabetically according to surnames.
2. On the official ballot used at the election, including electronic voting system ballots, the names of candidates beside or under headings designating each office to be voted for shall be alternated in the following manner:
  - a. The ballot shall first be arranged with the names in the order in which they are submitted for use on the sample ballots by the secretary of state for the state and district offices all the names for each office on the ballot in an order determined by lot by the county auditor or responsible election official, and prepared by the county auditor for the all state, district, and county offices.
  - b. 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 in which there are the most names. The same number of ballots shall be printed after each change of position.

- c. In making the changes of position, the printer shall take the candidate's name at the head of each office division and place it at the bottom of that division, moving the column up so the name that was second before the change is first after the change.
3. In precincts employing voting machines, the position of names which require alternating under the provisions of this section shall be alternated as follows:
- a- The names shall be alternated on voting machines so 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. There shall be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:
- (1) a. Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
- (2) b. Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.
- b- 4. The precincts shall be arranged according to the total votes cast for governor at the last general election in which the office of governor was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in that election.
- e- The initial location of the names in the precinct having the highest total votes shall be determined by lot by the city or county auditor or responsible election official.
- d- 5. If there are more than three candidates for any office, and it is not possible to place all of the names on one line, the names shall be placed in two or more lines having an equal or nearly equal number of names on each line; provided, that in no event shall only one name appear on any line.

Approved March 22, 1985

## CHAPTER 244

SENATE BILL NO. 2147  
(Committee on Judiciary)  
(At the request of the Secretary of State)

## INDEPENDENT CANDIDATES BALLOT COLUMN

AN ACT to amend and reenact section 16.1-12-02 of the North Dakota Century Code, relating to a single column on the ballot for independent candidates.

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

\* SECTION 1. AMENDMENT. Section 16.1-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-12-02. Certificates of nomination by petition - Form and contents. Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. The names of nominees so nominated shall appear on the ballot in a single column for independent candidates. Each certificate of nomination by petition shall contain:

1. The name of the nominee.
2. The office the nominee desires to fill.
3. The post-office address of the nominee.
4. A statement in not more than five words of the party or principle which the nominee represents, but the statement shall not indicate an affiliation with or the support of any political party organized in accordance with this title.
5. Signatures of qualified electors, as defined in this title, who reside in the state, district, or political subdivision. The signatures need not be appended to one paper, and each person signing shall add his mailing address and the date of signing. The signatures on the petition shall be in the following number:

\* NOTE: Section 16.1-12-02 was also amended by section 1 of House Bill No. 1207, chapter 245, and amended by section 43 of House Bill No. 1059, chapter 235.

- a. If the nomination is for an office to be filled by the electors of the entire state, there shall be not less than one thousand signatures.
  - b. If the nomination is for an office to be filled by the electors of a district less than the entire state, the number of signatures shall be ten percent of the number of votes cast in the district for governor at the last preceding general election, but in no case shall more than three hundred signatures be required.
6. If the petition is for the office of governor or lieutenant governor, it shall contain the names and other required information of candidates for both those offices.

Approved March 22, 1985

## CHAPTER 245

### HOUSE BILL NO. 1207 (Koland)

## PRESIDENTIAL CANDIDATE PETITION REQUIREMENTS

AN ACT to amend and reenact section 16.1-12-02 of the North Dakota Century Code, relating to signatures necessary for the placement of the name of a presidential candidate on the ballot.

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

\* SECTION 1. AMENDMENT. Section 16.1-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-12-02. Certificates of nomination by petition - Form and contents.** Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. The names of nominees so nominated shall appear on the ballot in a single column for independent candidates. Each certificate of nomination by petition shall contain:

1. The name of the nominee.
2. The office the nominee desires to fill.
3. The post-office address of the nominee.
4. A statement in not more than five words of the party or principle which the nominee represents, but the statement shall not indicate an affiliation with or the support of any political party organized in accordance with this title.
5. Signatures of qualified electors, as defined in this title, who reside in the state, district, or political subdivision. The signatures need not be appended to one paper, and each person signing shall add his mailing address and the date of signing. The signatures on the petition shall be in the following number:

\* NOTE: Section 16.1-12-02 was also amended by section 1 of Senate Bill No. 2147, chapter 244, and amended by section 43 of House Bill No. 1059, chapter 235.

- a. If Except as provided in subdivision c, if the nomination is for an office to be filled by the electors of the entire state, there shall be not less no fewer than one thousand signatures.
  - b. If the nomination is for an office to be filled by the electors of a district less than the entire state, the number of signatures shall be ten percent of the number of votes cast in the district for governor at the last preceding general election, but in no case shall more than three hundred signatures be required.
  - c. If the nomination is for the office of president, there shall be no fewer than four thousand signatures.
6. If the petition is for the office of governor or lieutenant governor, it shall contain the names and other required information of candidates for both those offices.

Approved March 29, 1985

## CHAPTER 246

SENATE BILL NO. 2068  
(Legislative Council)  
(Interim Elections Committee)

## ELECTION BALLOT STAMPING

AN ACT to amend and reenact sections 16.1-06-04 and 16.1-13-22 of the North Dakota Century Code, relating to the form of the election ballot.

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

\* SECTION 1. AMENDMENT. Section 16.1-06-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-06-04. Form and quality of ballots generally. All official ballots prepared under the provisions of this title for use in precincts in which voting machines or electronic voting systems are not used shall must:

1. Be a specific color, and the secretary of state shall prescribe a different color for each separate type of ballot used.
2. Be printed on uniform quality paper in an ink color suitable to make the ballot clearly legible.
3. Be of sufficient length to contain the names of all candidates to be voted for at such election.
4. Have the language "Vote for ----- name (or names) only" placed immediately under the name of each office.
5. Have printed thereon "Place a crossmark (X) by the name of the person for whom you wish to vote."
6. Leave sufficient space for each office to write or paste a name, or names, as the case may be, in lieu of those printed on the ballot.
7. Provide a space enclosed in a square in which the voter may designate by a cross or other mark his choice for each

\* NOTE: Section 16.1-06-04 was also amended by section 1 of Senate Bill No. 2067, chapter 237.

candidate opposite the name of such candidate, and such space shall precede or follow the candidate's name on the same line in a uniform manner.

8. Have Provide a space enclosed in a rectangle and have printed thereon next to the rectangle the following language: "All ballots, other than those used to vote absentee, must first be stamped and initialed by appropriate election officials in order to be counted."

Any precinct which uses an electronic counting machine may require the use of a particular writing instrument to mark the ballot so the ballots may be properly counted.

In precincts in which voting machines or electronic voting systems are used, the list of officers and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in a manner and form approximating the requirements of this section. In precincts in which electronic voting systems are used, the requirements of subsection 8 must be met for the ballot card and ballot envelope.

**SECTION 2. AMENDMENT.** Section 16.1-13-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-13-22. Delivering ballot to elector - Stamping.** The inspector or one of the election judges shall deliver ballots to the qualified electors. The inspector or judge delivering the paper ballot or ballot card, ballot stub, and ballot envelope shall inform each elector that if the ballot is not stamped and initialed by an election official it will be invalidated and to protect his right to vote the elector should observe the stamping and initialing of the ballot. When an electronic voting system is used, the inspector or judge delivering the ballot card, ballot stub, and ballot envelope shall inform each elector that if the ballot stub is detached by anyone except an election judge, the ballot card and ballot envelope shall not be deposited in the ballot box, but shall be marked spoiled and placed with the other spoiled ballots. At primary elections, the inspector or judge shall also inform each elector that if he splits his ballot or votes for candidates of more than one party his ballot will be rejected. Before delivering any ballot to an elector, the inspector or judge shall stamp once ~~at the top of the back of~~ in the rectangle provided on the ballot or ballot card and ballot envelope the designation "official ballot" and the other words provided for in section 16.1-06-18, and also shall write his initials thereon. Failure to stamp and initial a ballot or ballot card in the proper place ~~on the ballot shall~~ does not invalidate such ballot or ballot card, but a complete failure to stamp and initial a ballot ~~shall~~ or ballot card does invalidate the ballot or ballot card. Failure to stamp and initial a ballot envelope in the proper place on the ballot envelope does not invalidate the ballot envelope, but complete failure to stamp and initial a ballot envelope that has been used to write in a vote does invalidate the ballot envelope and the vote found thereon.

Approved April 4, 1985

## CHAPTER 247

HOUSE BILL NO. 1075  
(Legislative Council)  
(Interim Judiciary "B" Committee)

## ASSISTANCE FOR DISABLED VOTERS

AN ACT to amend and reenact section 16.1-13-27 of the North Dakota Century Code, relating to voter assistance due to the disability of an elector.

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

SECTION 1. AMENDMENT. Section 16.1-13-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-13-27. Disability of elector. Any elector who declares to the judges of election that he or she the elector cannot read the English language, or that because of blindness or other disability is unable to mark his or her the elector's ballot, upon request, may receive the assistance of any person of the elector's choice, other than the elector's employer, officer or agent of the elector's union, a candidate running in that election, or a relative of a candidate as provided in subsection 2 of section 16.1-05-02, in marking the elector's ballot. If the elector requests the assistance of a member of the election board, however, the elector shall receive the assistance of both election judges in the marking of his or her the elector's ballot. No one assisting any elector in marking a ballot under this chapter shall give information regarding the same. No elector, other than one who is unable to read the English language or one who because of disability is unable to mark a ballot, shall divulge to anyone within the polling place the name of any candidate for whom he or she the elector intends to vote, nor ask, nor receive the assistance of any person within the polling place to mark his or her the elector's ballot.

Approved March 14, 1985

## CHAPTER 248

SENATE BILL NO. 2070  
(Legislative Council)  
(Interim Elections Committee)

## COUNTY CANVASSING BOARD COMPOSITION

AN ACT to amend and reenact section 16.1-15-15 of the North Dakota Century Code, relating to the composition of the county canvassing board.

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

SECTION 1. AMENDMENT. Section 16.1-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-15-15. County canvassing board - Composition. The county canvassing board ~~shall~~ must be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners, and a representative of the district committee of all legislative districts which wholly or partly fall within the boundaries of the county as appointed by the district chairmen of the two political parties which received the highest number of votes cast for governor at the most recent general election at which a governor was elected. For any special county election when the county is composed of more than one legislative district and the election does not involve any legislative or statewide office, the county canvassing board must be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners, and one representative as appointed by the state chairman for each of the two political parties that received the highest number of votes cast for governor at the most recent general election at which a governor was elected.

Approved March 28, 1985

## CHAPTER 249

SENATE BILL NO. 2259  
(Senators Christensen, Walsh)  
(Representatives Koland, Thompson)

### BALLOT CANVASSING AND RECOUNT

AN ACT to amend and reenact sections 16.1-15-17, 16.1-15-22, 16.1-15-23, 16.1-15-25, 16.1-15-28, 16.1-15-29, 16.1-15-30, 16.1-15-35, 16.1-15-40, 16.1-15-44, 16.1-16-01, 16.1-16-04, and 16.1-16-10 of the North Dakota Century Code, relating to the canvassing and recount of election ballots.

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

**SECTION 1. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass. As soon as the returns are received by the county auditor, but not later than ~~ten~~ six days after each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section shall be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

**SECTION 2. AMENDMENT.** Section 16.1-15-22 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election. The county auditor of each county, under his official seal, shall return to the secretary of state by registered or certified mail within ~~fourteen~~ ten days after the day

of any primary election, a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in his county and the votes cast for every candidate for nomination for United States senator, United States representative, state officers, judges of the supreme court, judges of the district court, and members of the legislative assembly. The county auditor also shall file with the secretary of state a certificate showing the names and addresses of the persons nominated under the several political designations and principles in his county. The certified abstract and the certificate of nomination to be mailed under the provisions of this section shall be in the possession of the secretary of state before four p.m. on the fifteenth tenth day after the primary election.

**SECTION 3. AMENDMENT.** Section 16.1-15-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-15-23. Notice of nomination given candidate for county office by county auditor - Publication of findings of canvassing board. Upon the completion of the canvass of the returns of a primary election by the county canvassing board, the county auditor shall mail or deliver in person to each candidate nominated for any county office a certificate of his nomination and notice that his name will be placed on the official ballot. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the county auditor shall not prepare or deliver the certificate of nomination until ~~the time to demand a recount has expired, or~~ the recount results have been determined and the winner declared, ~~whichever is later.~~ Nomination notices for other than county offices shall be given by the secretary of state pursuant to section 16.1-15-40. The county auditor shall cause a copy of the findings of the canvassing board to be published in the official newspaper of the county.

**SECTION 4. AMENDMENT.** Section 16.1-15-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-15-25. County auditor to forward abstract of votes of general election to secretary of state - Contents - Abstract for presidential electors. Within fifteen ten days and before four p.m. on the fifteenth tenth day following any general election, the county auditor of each county, under his official seal, shall return to the secretary of state a certified abstract of the votes cast in his county at such election for each candidate for state and congressional offices, judges of the district courts, candidates for the legislative assembly, and for amendments to the constitution and other measures. In presidential years, the county auditor shall make a separate certified abstract of the votes cast for electors for president and vice president of the United States. The separate abstract for presidential electors shall be sealed, endorsed "presidential election returns", and shall be transmitted by registered or certified mail to the secretary of state. At the time the county

auditor transmits the certified abstract of the votes cast in his county, he shall file with the secretary of state a certificate showing the names and addresses of the persons who were elected to the various county offices in his county.

**SECTION 5. AMENDMENT.** Section 16.1-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-15-28. Certificate of election for officers elected in county at general election.** Immediately after the canvass of the general election returns by the county canvassing board, the county auditor shall prepare a certificate of election for each of the persons having the highest number of votes for county offices, and shall deliver the certificate to the person entitled thereto on his making application to the county auditor therefor. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the county auditor shall not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later.

**SECTION 6. AMENDMENT.** Section 16.1-15-29 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-15-29. Determining tie vote in county offices.** If the requisite number of county officers are not elected because two or more persons have equal and the highest number of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If a recount results in a tie vote the county auditor shall give notice to the persons to appear at his office at a time appointed by him. The persons then shall publicly decide by a coin flip which of them shall be declared elected. The county auditor shall prepare and deliver to the person elected an election certificate as provided in this chapter. If a demand for a recount is timely made, this section shall apply only if that recount results in a tie vote. No person who has assented to the determination of an election according to this section may thereafter demand a recount of that election.

**SECTION 7. AMENDMENT.** Section 16.1-15-30 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-15-30. Determining tie vote for legislative assembly.** If the requisite number of persons are not elected to the state senate or house of representatives because two or more persons have equal and the highest number of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If a recount results in a tie vote, the county auditor, if the legislative district in question is within one county, shall, by certified mail, notify the persons with equal and the highest number of votes to appear in his office at a time fixed by him. The time fixed shall not be more

than ~~ten~~ five days from the date the tie is determined by the county auditor. On the date fixed, the persons notified to appear shall publicly decide by a coin flip which of them shall be declared elected, and the county auditor shall certify the results to the secretary of state who shall prepare and deliver to the person elected a certificate of election as provided in this chapter. If the legislative district in question is within the boundaries of more than one county, the county auditor of the county which cast the greater number of votes for the office of governor at the last election at which a governor was elected shall proceed in accordance with this section. ~~If a demand for a recount is timely made, this section shall apply only if that recount results in a tie vote. No person who has assented to the determination of an election according to this section may thereafter demand a recount of that election.~~

**SECTION 8. AMENDMENT.** Section 16.1-15-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-15-35. Meeting of state canvassing board.** Not later than ~~twenty-five~~ seventeen days next following a primary, general, or special election, the state canvassing board 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 members of the board of the date of the meeting.

**SECTION 9. AMENDMENT.** Section 16.1-15-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-15-40. Statement prepared by state canvassing board for primary election - Contents - Signing - Candidate notified of nomination.** The state canvassing board shall prepare the statement required by subsections 1, 2, and 3 of section 16.1-15-21 for primary elections. The certificate shall be signed by the members of the board and filed in the office of the secretary of state. Upon completion of the canvass, the secretary of state shall mail to each candidate nominated a notice of his nomination stating that his name will be placed upon the official ballot to be voted for at the ensuing general election. If the election results indicate that any candidate is entitled to ~~demand~~ a recount pursuant to subsection 1 of section 16.1-16-01, the secretary of state shall not prepare or deliver the notice of nomination until ~~the time to demand a recount has expired, or~~ the recount results have been determined and the winner declared, ~~whichever is later~~. The secretary of state shall file a copy of the findings of the board and shall publish those findings in a newspaper printed in Burleigh County.

**SECTION 10. AMENDMENT.** Section 16.1-15-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-15-44. Secretary of state to record statement of general or special election, prepare certificates of election, publish statement. After receiving each certified statement and determination made by the state canvassing board, the secretary of state shall record the same in his office and shall prepare and transmit to each of the persons declared to be elected, a certificate of election as provided in this chapter. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the secretary of state shall not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall cause a copy of the certified statement and determination to be published in the official newspaper of Burleigh County.

\* SECTION 11. AMENDMENT. Section 16.1-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-16-01. Election recounts. A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, or county office, or for the approval or disapproval of any measure or question submitted to the electors of this state or one of its counties shall be conducted as follows:

1. The demand for a recount may be made by any of the following A recount must be conducted when:
  - a. Any person ~~who~~ failed to be nominated in a primary election by less than ~~two~~ one percent of the highest vote cast for a candidate of his party for the office sought.
  - b. Any person ~~who~~ failed to be elected in a general or special election by less than one-half of one percent of the highest vote cast for a candidate for that office.
  - c. Any person who files a petition signed by at least five electors, when a question or measure submitted to the 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. The recount demand must be made within ten ~~Within three~~ days after the canvass of the votes ~~by the county canvassing board in the case of county elections, and by the state canvassing board in the case of congressional, state, district, or legislative elections. The demand shall be in writing, shall recite one of the conditions in subsection 1 as a basis for the recount, and shall be filed with-~~

\* NOTE: Section 16.1-16-01 was also amended by section 45 of House Bill No. 1059, chapter 235, and amended by section 1 of Senate Bill No. 2324, chapter 251.

- a- The secretary of state when the recount is for a congressional, state, district, or legislative office or a question submitted to the electors of the entire state.
- b- The county auditor when the recount is for a county office or a question submitted to the electors of a county.
- 3- When, the secretary of state receives a timely recount demand and finds it to be in the proper form, he shall immediately notify all the county auditors to conduct a recount as provided in this section recounts as required by subsection 1. The secretary of state shall fix the date of statewide the recounts within seven days after giving notice that the auditor must conduct the recount. The date shall be within ten days after receipt of the recount demand. The Within three days after the canvass of votes by the county canvassing board, the county auditor shall determine the validity of recount demands filed with him and shall fix the date for recounts limited to his county. The date shall be within ten eight days after receipt of the recount demand the canvass. In all recount proceedings, the county auditor shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.
- 4- 3. Recounts shall be conducted by the county auditor who may employ up to four county electors to assist in the recount. The county auditor shall review all paper, machine, electronic voting system, and absentee ballots, whether or not the ballots were counted at the precinct or the county canvass, to determine which ballots were cast and counted according to the law. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor files a recount demand is a candidate involved in the recount, he shall be disqualified from acting thereon, and the clerk of the district court of the county shall perform the duties required of the county auditor by this section.
- 5- 4. The persons entitled to participate at the recount are:
- a. Each candidate involved in the recount, either personally or by a representative.
- b. An elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor shall

count the challenged ballot as he deems proper and shall then set the ballot aside with a notation that it was challenged and how it was counted. At the conclusion of the recount, the county auditor shall submit all challenged ballots to the recount board for decision. The recount board shall be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the clerk of the district court of the county. No person shall serve on the recount board if he would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the county commission who would be qualified to serve on the board shall appoint disinterested electors of the county to serve as alternates. The recount board shall review all challenged ballots, and on majority vote shall decide how they shall be counted. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter.

- 6- 5. The county auditor shall certify the results of the recount no later than fifteen days after the filing of the ~~recount~~ demand three days after the recount. The recount result shall become the official result of the election in the county. The county auditor shall prepare a corrected abstract of the votes. In a recount limited to the county, if the corrected abstract shows no change in the outcome of the election, no further action shall be taken. If the corrected abstract changes the outcome of the election, the county auditor shall issue certificates of nomination or election accordingly, and shall certify the new result of a question submitted to the electorate.
- 7- 6. In congressional, statewide, district, or legislative recounts, the county auditor shall, no later than fifteen days after the filing of the recount demand three days after the recount, send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state shall immediately assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the electorate accordingly.
- 8- 7. The expenses incurred in a recount of a county election shall be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a congressional, state, or legislative election shall 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.

- 9- 8. The results of any recount of votes cast in an election of a member of the legislative assembly shall be admissible in either house of the legislative assembly, or before a committee of either house, as evidence to aid in the determination of an election contest pending in that house.

**SECTION 12. AMENDMENT.** Section 16.1-16-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-16-04. Time for commencement of action.** Any action to contest an election shall be commenced and the complaint shall be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board, or within fourteen days after the final certification by the appropriate canvassing board if no recount is demanded to be conducted, except as provided in section 16.1-16-10. However, if the grounds for the action is the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses required by this title, or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. The contestee shall serve and file his answer within fourteen days after service of the contest summons and complaint.

**SECTION 13. AMENDMENT.** Section 16.1-16-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16.1-16-10. Legislative contest of election.** Legislative election contests shall be determined pursuant to sections 16.1-16-10 through 16.1-16-17. Any person intending to contest, before either house of the legislative assembly, the election of a member of the legislative assembly shall serve on that member a statement of contest, which shall specify the grounds for the contest. The statement shall be served on the member and a copy filed with the secretary of state within five days after a recount is completed, and within ten days after the canvass is completed if no recount is demanded to be conducted.

Approved March 28, 1985

## CHAPTER 250

SENATE BILL NO. 2069  
(Legislative Council)  
(Interim Elections Committee)

### ALTERNATIVE CANVASSING METHOD

AN ACT to create and enact a new section to chapter 16.1-15 of the North Dakota Century Code, relating to the canvass of votes following an election.

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

SECTION 1. A new section to chapter 16.1-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Alternative method for canvassing election for counties using electronic voting systems or electronic counting machines - County canvassing board. At the option of the county auditor in any county using electronic voting systems or electronic counting machines, the county canvassing board, in lieu of the election boards, shall canvass the votes for those precincts using either device. The board shall canvass the votes in the same manner as required for the election boards insofar as those provisions of law are applicable. The auditor shall notify the county canvassing board of this duty not less than one week prior to the election. This procedure is in addition to the canvass of returns that the county canvassing board must perform as provided in this chapter.

Approved March 28, 1985

# CHAPTER 251

SENATE BILL NO. 2324  
(J. Meyer)

## ELECTION RECOUNT PROCEDURES

AN ACT to amend and reenact subsection 5 of section 16.1-16-01 of the North Dakota Century Code, relating to election recount procedures.

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

\* SECTION 1. AMENDMENT. Subsection 5 of section 16.1-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 5. The persons entitled to participate at the recount are:
  - a. Each candidate involved in the recount, either personally or by a representative.
  - b. An elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor shall count the challenged ballot as he deems proper and shall then set the ballot aside with a notation that it was challenged and how it was counted. At the conclusion of the recount, the county auditor shall submit all challenged ballots to the recount board for decision. The recount board shall be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the clerk of the district court of the county. No person shall serve on the recount board if he would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the county commission who would be qualified to serve on the

\* NOTE: Section 16.1-16-01 was also amended by section 45 of House Bill No. 1059, chapter 235, and amended by section 11 of Senate Bill No. 2259, chapter 249.

board shall appoint disinterested electors of the county to serve as alternates. The recount board shall review all challenged ballots, and on majority vote shall decide how they shall be counted. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor shall take appropriate steps to safeguard the ballots.

Approved March 27, 1985