Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009

SENATE BILL NO. 2324
(Senators Dever, Nelson, Oehlke)
(Representatives L. Meier, Wolf, Boehning)

AN ACT to create and enact a new subsection to section 16.1-01-04 of the North Dakota Century Code, relating to qualifications of electors; to amend and reenact subsection 1 of section 15.1-09-11, sections 16.1-01-09, 16.1-01-09.1, 16.1-02-01, 16.1-02-02, and 16.1-02-05, subsection 2 of section 16.1-02-06, sections 16.1-02-07, 16.1-02-10, 16.1-02-13, 16.1-03-03, 16.1-03-19, 16.1-05-01, and 16.1-05-02, subsection 3 of section 16.1-05-04, sections 16.1-05-06, 16.1-09-02, 16.1-10-04.1, 16.1-11-06, 16.1-13-32, 16.1-15-15, 16.1-15-16, 16.1-15-34, 16.1-16-01, and 40-09-03, subsection 1 of section 40-21-02, sections 40-21-07 and 44-08-21, and subsection 2 of section 57-40.6-02 of the North Dakota Century Code, relating to absentee ballot deadlines for schools, initiative petitions, recall petitions, central voter file, political party organization, appointment of election judges and poll clerks, voter affidavits, statement of interests, political advertising disclaimers, certificates of endorsement, candidate petitions, spoiled ballot retention, canvassing boards, recounts, and city elections; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15.1-09-11 of the North Dakota Century Code is amended and reenacted as follows:

1. At least ~~twenty~~ <u>forty</u> days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provisions of section 15.1-09-08. The business manager shall notify the candidates as to the time and place of the drawing for position on the ballot.

SECTION 2. A new subsection to section 16.1-01-04 of the North Dakota Century Code is created and enacted as follows:

<u>For purposes of this title, a qualified elector may not authorize an attorney in fact, guardian, or other individual to apply for any ballot or to vote in any election on behalf of or in the place of the qualified elector.</u>

SECTION 3. AMENDMENT. Section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-09. Initiative or referendum petitions - Signature - Form - Circulation.

1. a. 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. The filed signature forms must be originals.

   b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval. An approved statement must be affixed to the petition before it is circulated for signatures, must be

called the "~~ballot~~ petition title", and must be placed immediately before the full text of the measure.

c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.

2. ~~No person~~ An individual may not sign any initiative or referendum petition circulated pursuant to article III of the Constitution of North Dakota unless the ~~person~~ individual is a qualified elector. ~~No person~~ An individual may not sign any petition more than once, and each signer shall add the signer's complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition shall do so in the presence of the ~~person~~ individual circulating the petition. A referendum or initiative petition must be on a form prescribed by the secretary of state containing the following information:

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.

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:

Name	Address
_____(Chairman)	_____
_____	_____

~~BALLOT~~ PETITION TITLE

(To be drafted by the secretary of state, approved by the attorney general, and attached to the petition before circulation.)

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.~~ IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

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

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the ~~person~~ individual circulating the petition.

QUALIFIED ELECTORS

	Month, Day, Year	Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery 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. 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.

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

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

I, _____, being sworn, say that I am a qualified elector; that I
(circulator)
reside at _____;
(address)

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~~ individual 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~~ individual whose name it purports to be.

_____
(signature of circulator)

Subscribed and sworn to before me on _____, _____, at
_____, North Dakota.
(city)
(Notary Seal) _____
(signature of notary)
Notary Public
My commission expires_____

4. No petition ~~shall~~ may be circulated under the authority of article III of the Constitution of North Dakota by ~~a person~~ an individual who is less than eighteen years of age, nor ~~shall~~ may the affidavit called for by subsection 3 be executed by ~~a person~~ an individual 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.

5. When signed petitions are delivered to the secretary of state, the chairperson of the sponsoring committee shall submit to the secretary of state an affidavit stating that to the best of that ~~person's~~ individual's knowledge, the petitions contain at least the required number of signatures. An elector's name may not be removed by the elector from a petition that has been submitted to and received by the secretary of state.

6. An initiative or referendum petition may be submitted to the secretary of state until midnight of the day designated as the deadline for submitting the petition.

7. An initiative petition may be circulated for one year from the date it is approved for circulation by the secretary of state.

SECTION 4. AMENDMENT. Section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-09.1. Recall petitions - Signature - Form - Circulation.

1. A request of the secretary of state for approval of a petition to recall an elected official or appointed official of a vacated elected office 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 recall; the printed name, signature, and address of the committee member; and notarization of the signature.

2. ~~A person~~ An individual may not sign a recall petition circulated pursuant to article III of the Constitution of North Dakota or section 44-08-21 unless the ~~person~~ individual is a qualified elector. ~~A person~~ An individual may not sign a petition more than once, and each signer shall add the signer's complete residential, rural route, or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the ~~person~~ individual circulating the petition. A petition must be in substantially the following form:

RECALL PETITION

We, the undersigned, being qualified electors request that _____(name of the ~~person~~ individual being recalled) the_____(office of ~~person~~ individual being recalled) be recalled for the reason or reasons of_____.

RECALL SPONSORING COMMITTEE

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

	Name	Complete Residential, Rural Route, or General Delivery Address
1.	_____(Chairman)	_____
2.	_____	

3. _____
4. _____
5. _____

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota for thirty days, and you are a United States citizen. All signers must add their complete residential, rural route, or general delivery address and date of signing. Every qualified elector signing a petition must do so in the presence of the ~~person~~ individual circulating the petition.

QUALIFIED ELECTORS

	Month, Day, Year	Name of Qualified Elector	Complete Residential, Rural Route, or General Delivery 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.

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

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

I,_____, being sworn, say that I am a qualified elector; that I
(circulator's name)
reside at_____;
(address)

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~~ individual 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~~ individual whose name it purports to be.

_____
(signature of circulator)

Subscribed and sworn to before me on_____, _____, at
_____, North Dakota.
(city)
(Notary Seal) _____
(signature of notary)

Notary Public
My commission expires_____

4. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the ~~person~~ individual being recalled, the office from which that ~~person~~ individual is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.

5. Circulators have one year to gather the required number of signatures of qualified electors on the recall petition from the date the secretary of state approves the recall petition for circulation.

6. A petition may not be circulated under the authority of article III of the Constitution of North Dakota or section 44-08-21 by ~~a person~~ an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by ~~a person~~ an individual 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.

~~6.~~ 7. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that ~~person's~~ individual's knowledge, the petitions contain at least the required number of signatures. An elector's name may not be removed by the elector from a recall petition that has been submitted to and received by the appropriate filing officer.

~~7.~~ 8. The filing officer has a reasonable period, not to exceed thirty days, in which to pass upon the sufficiency of a recall petition. The filing officer may conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the filing officer to be invalid may not be counted and all violations of law discovered by the filing officer must be reported to the state's attorney for possible prosecution.

9. The filing officer shall call a special recall election to be held no sooner than ninety days nor later than one hundred days following the date the filing officer certifies the petition valid and sufficient. No special recall election may be called if that date would be within ninety days of the next scheduled election.

10. A notice of the recall election must be posted in the official newspaper thirty days before the candidate filing deadline, which is by four p.m. on the sixtieth day before the election. The official notice must include the necessary information for a candidate to file and have the candidate's name included on the ballot.

11. An official may not be recalled if the recall special election would be held during the same year in which the official's office would be included on the ballot.

SECTION 5. AMENDMENT. Section 16.1-02-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-01. Permanent central voter file. A permanent, centralized electronic data base of voters, to be known as the central voter file, is established with the offices of the secretary of state and county auditors linked together by a centralized statewide system. The county auditor is chief custodian of the central voter file records in each county. The secretary of state ~~is responsible for maintaining~~ shall maintain the central voter file. The central voter file must be accessible by the secretary of state and all county auditors for purposes of preventing and determining voter fraud,

making changes and ~~updating the central voter file~~ updates, and generating information, including pollbooks, reports, inquiries, forms, and voter lists.

SECTION 6. AMENDMENT. Section 16.1-02-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-02. Costs of creating and maintaining a central voter file. The creation of the central voter file and its maintenance through June 30, 2011, must be paid for with funds from the state's election fund, provided the election fund contains adequate funding to create and maintain the central voter file. The creation of the central voter file and its maintenance through June 30, 2011, may not be paid for from funds in the secretary of state's budget, the state's general fund, or from county funds. Beginning July 1, 2011, the offices required to perform the functions and duties of this chapter shall bear the costs incurred in performing those duties and the secretary of state shall pay the costs of operating and maintaining the central voter file. As used in this section, costs of maintaining the central voter file mean costs of annual software licenses, hosting costs for the software in the state data center, costs of necessary enhancements to the software, and the costs for implementing the duties and responsibilities of the secretary of state's office relating to the central voter file.

SECTION 7. AMENDMENT. Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - ~~Verification by mail -~~ Challenges - Postelection verification.

1. Within ~~sixty~~ forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.

2. The secretary of state, with the assistance of the county auditors, within ~~seventy~~ eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.

3. ~~The county auditor shall mail to a random sampling of individuals contained in the central voter file a notice stating the individual's name and address as the name and address appear in the central voter file. The random sampling must be determined in the manner established by the secretary of state. The notice must request the individual to notify the county auditor if there is any mistake in the information.~~

~~4.~~ Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall ~~designate the individual as "challenged"~~ transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. ~~An individual designated as "challenged" shall comply with section 16.1-05-06 before being allowed to vote at the next election in that precinct.~~ If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.

~~5.~~ 4. Within ~~ninety~~ forty-five days after an election, the county auditor shall send ~~the~~ a notice ~~provided for under subsection 3~~ to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify

immediately ~~notify~~ the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.

SECTION 8. AMENDMENT. Subsection 2 of section 16.1-02-06 of the North Dakota Century Code is amended and reenacted as follows:

2. The state health officer shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report. ~~Within sixty days after receiving a report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file.~~ The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

SECTION 9. AMENDMENT. Section 16.1-02-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-07. Reporting changes of names - Changes to records in the central voter file. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. ~~Within sixty days after receiving the report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file.~~ The secretary of state shall prepare and distribute a list of those individuals to each county auditor. Any individual who has obtained a protection order under section 14-07.1-03 or who is protected by a disorderly conduct restraining order under section 12.1-31.2-01 must be listed in the central voter file with a "secured active" designation. A "secured active" designation means a record maintained as an active voter for pollbook purposes, but otherwise is an exempt record. The state court administrator or the bureau of criminal investigation shall make available upon request of the secretary of state the name of each individual who has obtained such an order.

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

16.1-02-10. Posting voting history - Failure to vote - Individuals designated inactive. Within ~~ninety~~ seventy-five days after each election, each county auditor shall post the voting history for each individual who voted in the election. After the close of the 2010 calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to "inactive" in the central voter file. The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as "inactive" in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as "inactive" in the central voter file.

SECTION 11. AMENDMENT. Section 16.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-13. Information contained in pollbooks generated from the central voter file. The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the day before an election. With the exception of a record designated "secured active" and the unique identifier, which are exempt records, the precinct pollbooks are open records under section 44-04-18. ~~Between the fifteenth day before the election and the day of the election, no changes or updates to records of individuals contained in the central voter file or a pollbook generated from the central voter file may be made, other than changes related to the status of an individual voting early or an individual requesting and returning an absent voter's ballot.~~ The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day.

Pollbooks generated from the central voter file must contain the following information for each individual contained therein:

1. The complete legal name of the individual.

2. The complete residential address of the individual.

3. The complete mailing address of the individual, if different from the individual's residential address.

4. The unique identifier generated and assigned to the individual.

5. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides. A ballot-style code identifying this information may be used in place of the information required by this subsection.

6. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the pollbook.

SECTION 12. AMENDMENT. Section 16.1-03-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-03. Caucus business and elections - Political parties entitled to elect committeemen.

1. Each precinct caucus shall elect a chairman, committeemen as provided in subsection 3, and other officers as may be provided by party rules. The caucus may also discuss party policies, candidates, and any other business as prescribed by party rules.

2. No political organization is entitled to elect a precinct committeeman at its precinct caucus unless:

   a. The organization nominated and had printed on the ballot at the last preceding ~~presidential~~ general election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor, attorney general, or secretary of state; and

   b. The candidates provided for in subdivision a received at least five percent of the total vote cast for presidential electors or for governor, attorney general, or secretary of state within this state at that election.

3. Each political party in each voting precinct of this state, otherwise qualifying under subsection 2, is entitled to elect one precinct committeeman for each two hundred fifty votes, or fraction thereof, cast for the party's presidential electors, governor, attorney general, or secretary of state in the precinct in the last ~~presidential~~ general election. Each precinct is entitled to at least one precinct committeeman for each party which qualifies under subsection 2. Each precinct committeeman must be an elector of the precinct in which the committeeman resides and must be elected for a two-year term.

SECTION 13. AMENDMENT. Section 16.1-03-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-19. Organizations allowed to nominate statewide and legislative candidates. A political organization may not endorse candidates or have candidates petition for president, vice president, Congress, statewide office, or legislative office as set forth in chapter 16.1-11, unless the organization~~, political or otherwise~~:

1. Had printed on the ballot at the last preceding ~~presidential~~ general election the names of a set of presidential electors pledged to the election of the party's candidate for president and vice president ~~or~~, a candidate for governor, a candidate for attorney general, or a candidate for secretary of state and those candidates for presidential electors ~~or~~, governor, attorney general, or secretary of state received at least five percent of the total vote cast for presidential electors ~~or~~, the office of governor, attorney general, or secretary of state within this state at that election; and

2. Organized according to all requirements of this chapter; or

3. Filed a petition with the secretary of state as set forth in section 16.1-11-30.

SECTION 14. AMENDMENT. Section 16.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-01. Election officers. At each primary, general, and special statewide or legislative district election, and at county elections, each polling place must have an election board in attendance. The election board must consist of an election inspector and at least two election judges. Counties utilizing polling places containing more than one precinct may choose to use one election board to supervise all precincts even if the precincts are within different legislative districts so long as each district chairman of each qualified political party is given the opportunity to have representation on the election board if desired.

1. The election inspector must be selected in the following manner:

   a. Except as provided in subdivision b, in all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and fill all vacancies occurring in those offices.

   b. In all multiprecinct polling locations containing both rural and city precincts, the county auditor, with the approval of the majority of the board of county commissioners, shall appoint the election inspectors and fill all vacancies occurring in those offices. The selection must be made on the basis of the inspector's knowledge of the election procedure.

   c. The election inspector shall serve until a successor is named. If an inspector fails to appear for any training session without excuse, the office is deemed vacant and the auditor shall appoint an individual to fill the vacancy.

   All appointments required to be made under this section must be made at least forty days preceding an election.

2. The election judges must be appointed in the following manner:

   a. Except as provided in subdivision b:

      (1) The election judges for each polling place must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. In polling places in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge.

   ~~3.~~ (2) The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least forty days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges. If the county auditor has exhausted all practicable means to select judges from within the boundaries of the precincts within the polling

place and vacancies still remain, the county auditor may select election judges who reside outside of the voting precinct but who reside within the polling place's legislative districts. If vacancies still remain, the county auditor may select election judges who reside outside of the legislative districts but who reside within the county.

b. For special elections involving only no-party offices, the election official responsible for the administration of the election with the approval of the majority of the members of the applicable governing body shall appoint the election judges for each polling location.

~~4.~~ 3. If at any time before or during an election, it ~~shall be made to appear~~ appears to an election inspector, by the affidavit of two or more qualified electors of the precinct, that any election judge is disqualified under this chapter, the inspector shall remove that judge at once and shall fill the vacancy by appointing a qualified ~~person~~ individual of the same political party as that of the judge removed. If the disqualified judge had taken the oath of office as prescribed in this chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.

~~5.~~ 4. ~~With the approval of the majority of the board of county commissioners, the county auditor may appoint as many poll clerks as are necessary for the proper administration of a polling place.~~ The election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the poll clerks for each polling place. However, no fewer than two poll clerks must be appointed for each polling place. Poll clerks must be appointed based on their knowledge of election matters, attention to detail, and on any necessary technical knowledge.

SECTION 15. AMENDMENT. Section 16.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-02. Qualifications of members of the board of election - Oath of office.

1. a. Except as provided in subdivisions b and d, every member of the election board and each poll clerk must be a qualified elector of a precinct within the polling place boundaries in which the ~~person~~ individual is assigned to work and must be eligible to vote at the polling place to which the ~~person~~ individual is assigned unless the county auditor has exhausted all means to appoint election judges and clerks from within the voting precinct under subsection 2 of section 16.1-05-01.

b. A student enrolled in a high school or college in this state who has attained the age of sixteen is eligible to be appointed as a poll clerk if the student possesses the following qualifications:

(1) Is a United States citizen or will be a citizen at the time of the election at which the student will be serving as a member of an election board;

(2) Is a resident of this state and has resided in the precinct at least thirty days before the election; and

(3) Is a student in good standing attending a secondary or higher education institution.

c. A student appointed as a poll clerk may be excused from school attendance during the hours that the student is serving as a poll clerk, including training sessions, if the student submits a written request to be absent from school signed and approved by the student's parent or guardian and by the school administrator and a certification from the ~~district party chairman or~~ county auditor stating the hours during which the student will serve. A student excused from school attendance under this subdivision

may not be recorded as being absent on any date for which the excuse is operative. No more than two students may serve as poll clerks on an election board.

d. An individual who has attained the age of sixteen and has graduated from high school or obtained a general education degree from an accredited educational institution is eligible to be appointed as a poll clerk if the individual meets the qualifications of paragraphs 1 and 2 of subdivision b.

2. ~~No person~~ An individual may not serve as a member of the election board or as a poll clerk ~~who~~ if the individual:

a. ~~H~~as anything of value bet or wagered on the result of an election.

b. Is a candidate in ~~the~~ that election ~~at which the person is serving~~.

c. Is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate in ~~the~~ that election ~~at which the person is serving~~.

3. ~~Prior to~~ Before assuming ~~their~~ the duties, ~~all members~~ each member of the election board and ~~the~~ each poll ~~clerks~~ clerk severally shall take and subscribe an oath in substantially the following form:

I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk (as the case may be) according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

The oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or election judges shall administer the oath to each other and to the poll clerks. The ~~person~~ individual administering the oath shall cause an entry thereof to be made and subscribed by that ~~person~~ individual and prefixed to each pollbook.

4. ~~A person~~ An individual serving as a member of the election board ~~shall~~, ~~prior to~~ before each election, shall attend a period of instruction conducted by the county auditor or the county auditor's designated representative, provided that ~~such~~ the period of instruction has been conducted since the appointment of the election judges or election inspector.

5. If any member of the election board fails to appear at the hour appointed for the opening of the polls, the remainder of the board shall select ~~a person~~ an individual to serve in the absent ~~person's~~ individual's place. In filling a vacancy in the office of election judge ~~or clerk~~, the remainder of the board shall select ~~a person~~ an individual of the absent ~~person's~~ individual's political party if such ~~a person~~ an individual is reasonably available. The office of election inspector or clerk may be filled by any qualified ~~person~~ individual without regard to political affiliation. If no members of the election board appear at the hour appointed for opening the polls, the qualified electors present shall call the county auditor, city auditor, or school business manager, as appropriate, for instructions and then orally elect a board as nearly as possible in conformity with ~~the provisions of~~ this section.

SECTION 16. AMENDMENT. Subsection 3 of section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

3. The election inspector shall assign the poll clerks~~, an equal number from each political party represented on the election board,~~ to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must

contain the name and address of each ~~person~~ individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.

SECTION 17. AMENDMENT. Section 16.1-05-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-06. Challenging right ~~of person~~ to vote - Identification or affidavit required - Penalty for false swearing - Optional poll checkers.

1. ~~One~~ Three poll ~~challenger~~ challengers appointed by the district chairman of each political party represented on the election board ~~is~~ are entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than ~~one~~ three poll ~~challenger~~ challengers from each political party ~~is~~ are entitled to be in attendance at each polling place at any one time.

2. Any member of the election board may challenge the right of an individual to vote if the election board member has knowledge or has reason to believe the individual is not a qualified elector. A poll challenger may request members of the election board to challenge the right of an individual to vote if the poll challenger has knowledge or has reason to believe the individual is not a qualified elector of the precinct. A challenge may be based upon any one of the following:

   a. The individual offering to vote does not meet the age or citizenship requirements.

   b. The individual offering to vote has never voted in the precinct before, the name of the individual offering to vote does not appear in the pollbook generated from the central voter file, and the individual fails to provide reasonable evidence of residency in the precinct.

   c. Except as provided in section 16.1-01-05, the individual offering to vote physically resides outside of the precinct.

   d. The individual offering to vote does not meet the residency requirements provided in section 16.1-01-04.

   e. The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 3.

3. If after an election board member has requested that the individual offering to vote provide an appropriate form of identification to address any of the voting eligibility concerns listed in subsection 2 and the identification is not provided or does not adequately confirm the eligibility of the challenged individual, the challenged individual may not vote unless the challenged individual executes an affidavit, acknowledged before ~~the~~ an election ~~inspector~~ board member, that the challenged individual is a legally qualified elector of the precinct.

4. The affidavit must include:

   a. The name~~, present address, and any contact telephone number~~ of the affiant ~~and the address of the affiant at the time the affiant last voted~~.

   b. The address of the affiant.

   c. The birth date of the affiant.

   d. The contact telephone number of the affiant.

   e. The address of the affiant at the time the affiant last voted.

   f. The previous last name of the affiant if it was different when the affiant last voted.

g. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.

~~c.~~ h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.

~~d.~~ i. Notice of the penalty for making a false affidavit and that the county auditor ~~may~~ is required to verify the affidavit.

j. A notice indicating that the affidavit is not an open record, but that information identifying who voted after executing an affidavit is an open record as part of the pollbook, except for any individual listed as secured active in the central voter file under section 16.1-02-13.

~~e.~~ k. A place for the affiant to sign and swear to the affiant's qualifications as a voter.

5. Written notice of the penalty for making a false affidavit and that the county auditor shall verify the affidavits must ~~also~~ be prominently displayed at the polling place in a form prescribed by the secretary of state. An individual who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.

6. ~~In addition to the poll challenger, not more than two poll checkers appointed by the~~ The district chairman of each political party represented on the election board may ~~be in attendance at each~~ appoint poll checkers to a polling place, provided the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. ~~The poll~~ Poll challengers ~~and poll checkers~~ must be qualified electors of the district in which they are assigned.

7. No poll challenger or checker may be a member of the election board.

8. The district chairman shall notify the county auditor of each county contained in the legislative district ~~before the third~~ one day before the day of the election of the names of individuals whom the district chairman has appointed to serve as poll challengers and poll checkers in the precincts in the legislative district.

SECTION 18. AMENDMENT. Section 16.1-09-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-09-02. Statement of interests to be filed. Every candidate for elective office shall sign and file ~~a~~ the statement of interests as required by this chapter. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal disclosure statement that is required by the federal election commission. Candidates for elective office who are required to file such statements shall do so with the filing officer for that election at the time of filing a certificate of nomination, a certificate of endorsement, a petition of nomination, or a certificate of write-in candidacy, pursuant to chapter 16.1-11, 16.1-12, or 40-21, as is appropriate. ~~A person~~ An individual who has filed a statement as the result of candidacy in a primary election need not refile before running in the following general election. A write-in candidate who is not required to file a certificate of write-in candidacy shall file the statement of interests after the candidate's election at the time of filing the required oath of office. Every ~~person~~ individual who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment. A filing officer may not include a candidate's name on the ballot if an error is discovered on the statement and the candidate is unable to or refuses to make the necessary correction before the sixtieth day before the election.

SECTION 19. AMENDMENT. Section 16.1-10-04.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-04.1. Certain political advertisements to disclose name of sponsor - Name disclosure requirements. Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, website, or by any other similar public means, on behalf of or in opposition to any candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, or by a measure committee, or a corporation making a direct expenditure either for or against a measure, must disclose on the advertisement the name of the person, as defined in section 16.1-08.1-01, or political party paying for the advertisement. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible ~~person~~ individual from the political party, association, or partnership. The name of the person ~~or political party~~ paying for any radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible ~~person~~ individual from the political party, association, or partnership. In every political advertisement in which the name of the person ~~or political party~~ paying for the advertisement is disclosed, the first and last name of any named ~~person~~ individual must be disclosed. An advertisement paid for by an individual candidate or group of candidates must disclose that the advertisement was paid for by the individual candidate or group of candidates. The first and last name or names of the candidates paying for the advertisement are not required to be disclosed. This section does not apply to campaign buttons.

SECTION 20. AMENDMENT. Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.

1. Every candidate for United States senator, United States representative, a state office except the office of state senator or state representative, and judges of the supreme and district courts shall present to the secretary of state, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixtieth day ~~prior to~~ before any primary election, ~~present to the secretary of state~~ either:

~~1.~~ a. ~~A~~ The certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or

~~2.~~ b. ~~A~~ The nominating petition containing the following:

~~a.~~ (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.

~~b.~~ (2) The name of the party the candidate represents if the petition is for an office under party designation.

~~c.~~ (3) The signatures of qualified electors, the number of which must be determined as follows:

~~(1)~~ (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.

~~(2)~~ (b) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.

~~(3)~~ (c) If the office is under the no-party designation, at least three hundred signatures.

~~d.~~ (4) The mailing address and the date of signing for each signer.

2. If the petition or certificate of endorsement is for the office of governor or lieutenant governor, ~~it~~ the petition or certificate must contain the names and other information required of candidates for both those offices. If the petition or certificate of endorsement is mailed, it must be in the possession of the secretary of state before four p.m. of the sixtieth day ~~prior to~~ before the primary election.

SECTION 21. AMENDMENT. Section 16.1-13-32 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-32. Securing new ballot upon spoiling of others. If any elector spoils a ballot, the elector may obtain others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot. Each paper ballot returned must be canceled immediately and, together with those not distributed to the electors, must be preserved and secured in sealed packages and returned to the county ~~auditor from whom received~~ recorder.

SECTION 22. AMENDMENT. Section 16.1-15-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-15. County canvassing board - Composition. The county canvassing board must be composed of the county recorder, county auditor, chairman of the board of county commissioners, and a representative of 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. An individual who served on an election board during the election may not serve as a political party representative on the canvassing board for that same election. The district chairmen of the political parties from each legislative district within the county shall appoint the respective political party representative. The county canvassing board must be comprised of at least five members, and both political parties must be represented. Each political party from each legislative district within a county may request representation on the canvassing board if there is equal representation from each of the political parties. 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 county recorder, 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.

SECTION 23. AMENDMENT. Section 16.1-15-16 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-16. Qualifications of members of canvassing board - Replacements - Quorum. ~~No~~ A member of the county canvassing board who ~~would not be eligible to serve as a member of the election board pursuant to subsection 2 of section 16.1-05-02 may serve on the county canvassing board~~ has anything of value bet or wagered on the result of the election may not serve on the board. When a member of the county canvassing board is a candidate or husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate for any office for which that member canvasses the votes, the member must be removed from that portion of the canvass. If any of the members of the board other than the representatives of the two political parties are disqualified or cannot serve for any other reason, the county commissioners who would be qualified to serve on the board shall appoint alternates to serve in the place of those members of the board who are disqualified. If any of the representatives of the district committees of the two parties are disqualified or cannot serve for any other reason and if the party wishes to have representation, the district chairmen shall appoint an alternate from their respective district committees to act as a member of the county canvassing

board. A majority of the confirmed members of the board or their duly appointed alternates constitute a quorum and may make the canvass provided for in this chapter and certify the results thereof.

SECTION 24. AMENDMENT. Section 16.1-15-34 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-34. Member of state canvassing board - When disqualified. A member of the state canvassing board who has anything of value bet or wagered on the result of the election may not serve on the board. When a member of the state canvassing board is a candidate or husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate for any office for which that member canvasses the votes, the member ~~shall~~ must be removed from that portion of the canvass. If a quorum still exists, the remaining members shall canvass the votes for that office. If a quorum does not exist, another state officer, summoned according to the authorization granted the state canvassing board in section 16.1-15-33, shall ~~be required to~~ canvass the votes for that office.

SECTION 25. AMENDMENT. Section 16.1-16-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-01. Election recounts. A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, county, or city office, or for the approval or disapproval of any measure, question, or bond issue submitted to the qualified electors of this state or one of its political subdivisions must be conducted according to guidelines established by the secretary of state and as follows:

1. A recount must be conducted when:

   a. Any ~~person~~ individual failed to be nominated in a primary election by one percent or less of the highest vote cast for a candidate for the office sought.

   b. Any ~~person~~ individual failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.

   c. A question, measure, or bond issue submitted to the qualified electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.

2. A demand for a recount may be made by any of the following:

   a. Any ~~person~~ individual who failed to be nominated in a primary election by more than one percent and less than two percent of the highest vote cast for a candidate for the office sought.

   b. Any ~~person~~ individual who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.

3. A demand for a recount must be made within three days after the canvass of the votes by the county canvassing board in the case of county elections and city elections that are combined with the county and by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections. The demand must be in writing, must recite one of the conditions in subsection 2 as a basis for the recount, must contain a bond in an amount previously established by the auditor or auditors doing the recount sufficient to pay the cost of the recount, and must be filed with:

   a. The secretary of state when the recount is for a congressional, state, district, or legislative office.

b. The county auditor when the recount is for a county office or city office when a city election is combined with the county.

4. Within four days after the canvass of the votes by the state canvassing board in the case of presidential, congressional, state, judicial district, multicounty district, or legislative elections, the secretary of state shall notify all the county auditors to conduct recounts as required by subsection 1 and, when a timely recount demand is received and it is in proper form, as required by subsection 2. The secretary of state shall fix the date or dates of the recounts of legislative contests to be held within seven days after giving notice to the affected auditors that recounts must be conducted. The secretary of state shall fix the date or dates of the recounts of statewide races to be held within fourteen days after giving notice to the auditors that recounts must be conducted. Within four days after the canvass of votes by the county canvassing board or other political subdivision canvassing board, the county auditor or other political subdivision election official shall fix the date for recounts limited to the county, those cities within the county which combined the election with the county, or other political subdivision. The date must be within eight days after the canvass. In all recount proceedings, the county auditor or other election official, as appropriate, shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.

5. ~~Recount employees.~~ For recounts conducted by counties of federal, state, district, and county offices, measures, and questions, the county auditor must conduct the recount and may employ up to four qualified electors of the county to assist in the recount. The county auditor shall review all paper and electronic voting system ballots and associated records, whether the ballots were counted at the precinct or the county canvass, and all absentee ballots cast pursuant to section 16.1-07-09 to determine which ballots were cast and counted according to the law, including that the ballots were properly initialed and that the initials found on the ballots are verified as those of the precinct election board members. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor is a candidate involved in the recount, the county auditor is disqualified from acting thereon, and the county recorder shall perform the duties required of the county auditor by this section. For recounts conducted by political subdivisions other than counties of local offices, measures, and questions, the election officer in a political subdivision shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision ballot measures, questions, or bond issues.

6. a. ~~Recount participants.~~ The ~~persons~~ individuals entitled to participate at the recount are:

~~a.~~ (1) Each candidate involved in the recount, either personally or by a representative.

~~b.~~ (2) A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

b. The ~~persons~~ individuals allowed to participate may challenge the acceptance or exclusion of any ballot. The ~~person~~ individual challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official ~~deems~~ determines proper and ~~shall~~ then shall set the ballot aside with a notation that it was challenged and how it was counted.

7. ~~Recount board.~~ At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. Except for political subdivision recounts other than counties, the recount board must be composed of the state's attorney of the county, the chairman of the board of county commissioners, and

the county recorder. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. ~~No person~~ An individual may not serve on the recount board if the ~~person~~ individual has anything of value bet or wagered on the result of the election, is a candidate for the office being recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate involved in the recount. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots and on majority vote shall decide how those ballots are counted. The recount board is authorized to initial all absentee ballots cast ~~pursuant to~~ under section 16.1-07-09 that were not considered or counted at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.

8. The county auditor or other election official shall certify the results of the recount no later than three days after the recount. The recount result is the official result of the election in the county or other political subdivision. The county auditor or other election official shall prepare a corrected abstract of the votes. In a recount limited to the county, city, or other political subdivision, if the corrected abstract shows no change in the outcome of the election, no further action may be taken. If the corrected abstract changes the outcome of the election, the county auditor or other election official shall issue certificates of nomination or election accordingly and shall certify the new result of a question submitted to the qualified electors. In the case of a city election that is combined with a county election, the county auditor shall certify the new results of the election to the city auditor who is responsible for issuing new certificates of election if applicable.

9. In presidential, congressional, statewide, judicial district, multicounty district, or legislative recounts, the county auditor ~~shall~~, no later than three days after the recount, shall send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state ~~shall~~ immediately shall assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the qualified electors accordingly.

10. The expenses incurred in a recount of a county election must be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a political subdivision other than a county election must be paid by that political subdivision. The expenses incurred in a recount of a city election must be paid by the city on a warrant by the city auditor. The expenses incurred in a recount of a presidential, congressional, state, judicial district, multicounty district, or legislative election must be paid by the state from the general fund upon approval by the secretary of state of a statement of expenses received from the county auditors. The expenses incurred in a recount demanded under subsection 2 of section 16.1-16-01 must be paid by the secretary of state or county auditor from the bond submitted by the ~~person~~ individual requesting the recount.

11. This section also applies to city elections that are not combined with the county except the city auditor, to the extent applicable, shall perform the duties of the county auditor.

SECTION 26. AMENDMENT. Section 40-09-03 of the North Dakota Century Code is amended and reenacted as follows:

40-09-03. Regulations governing election of commissioners. The members of the board of city commissioners ~~shall~~ must be elected at large and not by wards. Each voter may vote for one of the candidates for the office of president of the board of city commissioners and for as many candidates for the office of city commissioner as there are commissioners to be elected. Candidates for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election. A candidate may run for only one office in a city at any given election.

SECTION 27. AMENDMENT. Subsection 1 of section 40-21-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline along with a list of the offices to appear on the ballot must be published in the official newspaper of the city as provided by section 40-01-09.

SECTION 28. AMENDMENT. Section 40-21-07 of the North Dakota Century Code is amended and reenacted as follows:

40-21-07. Petition for nomination of elective official in cities - Signatures required - Withdrawal of petition - Contents. A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day before 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. A candidate shall also file a statement of interests as required by section 16.1-09-02. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that 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 must be in the possession of the city auditor before four p.m. on the sixtieth day ~~prior to~~ before the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor at least sixty days and before four p.m. on the sixtieth day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed more than ninety days before the date when nominating petitions must be filed ~~pursuant to~~ under this section. Any signatures to a nominating petition obtained more than ninety days before that date may not be counted. ~~Candidates~~ A candidate for city council may run for either the office of mayor or council member but not both in the same election. ~~Candidates~~ A candidate for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election. A candidate may run for only one office in a city at any given election.

SECTION 29. AMENDMENT. Section 44-08-21 of the North Dakota Century Code is amended and reenacted as follows:

44-08-21. Recall of elected officials of political subdivisions.

1. An elected official of a political subdivision, except an official subject to recall ~~pursuant to~~ under section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the official sought to be recalled was on the ballot, not including other recall elections. An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the

most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to petitions under this section.

2. A recall petition must include a stated reason for the recall and be approved as to form ~~prior to~~ before circulation by the secretary of state. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.

3. Once circulated, the recall petition must be filed with the filing officer with whom a petition for nomination to the office in question is filed unless that filing officer is the ~~person~~ individual subject to recall, in which case the petition must be filed with the secretary of state. The filing officer with whom the petition is filed shall pass on the sufficiency of a petition pursuant to section 16.1-01-09.1. Except as otherwise provided in this section, the filing officer shall call a special election to be held not sooner than ~~eighty~~ ninety days nor later than ~~ninety~~ one hundred days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if that date would be within ninety days of the next scheduled election. An elector's name may not be removed from a recall petition that has been submitted to and received by the appropriate filing officer.

4. The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the sixtieth day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint ~~a person~~ an individual to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected. An official whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall.

SECTION 30. AMENDMENT. Subsection 2 of section 57-40.6-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The question of the adoption of the fee must be submitted on a ballot on which the ~~ballot~~ petition title of the proposition includes the maximum monthly rate of the proposed fee authorized under subsection 1. The question of the adoption of the fee may be submitted to electors at a general, primary, or special election or at a school district election if the boundaries of the school district are coterminous with the boundaries of the governing body adopting the resolution proposing the adoption of the fee. The fee is not effective unless it is approved by a majority of the electors voting on the proposition. The ballot must be worded so that a "yes" vote authorizes imposition of the fee for an initial six-year period.

SECTION 31. LEGISLATIVE COUNCIL STUDY OF RESIDENCY STATUS. During the 2009-10 interim, the legislative council shall consider studying the rules for determining residency status under state law, including an examination of the determination of residency for voting and higher education tuition purposes; for obtaining game and fish licenses, motor vehicle registrations, and motor vehicle operator's licenses; and for taxation purposes. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

President of the Senate	Speaker of the House
Secretary of the Senate	Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2324.

Senate Vote:	Yeas	42	Nays	3	Absent	2
House Vote:	Yeas	89	Nays	2	Absent	3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State