Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1275

Introduced by

Representatives Kasper, Beadle, Grande, Heller, Monson, Owens, Rohr, Streyle, Thoreson

Senators Dever, Flakoll, Wardner

A BILL for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to the appointment of poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, 16.1-15-06, 16.1-15-08, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 - ~~Challenges -~~ Postelection verification.

1. Within 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 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. 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 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. 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.

~~4. Within forty-five days after an election, the county auditor shall send a notice 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 the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

SECTION 2. AMENDMENT. Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted 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.
3. The election inspector shall assign the poll clerks 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 individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~

~~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.

~~6.~~5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.

~~7.~~6. Each member of the election board shall maintain order in the polling place.

SECTION 3. AMENDMENT. Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.

1. Before ~~delivering~~a member of the election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~An approved form of identification ~~may include~~includes:
   a. An official form of identification issued by the state;
   b. An official form of identification issued by a tribal government;
   c. A form of identification prescribed by the secretary of state; or
   d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and~~ if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of ~~the~~a precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the name of the voter in the pollbook.
3. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~

~~4.~~ a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any

incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.

b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.

c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.

~~5.~~4. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

5. If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall offer the individual the opportunity to execute a voter's affidavit acknowledged before an election board member.

6. The voter's affidavit must include:

a. The name of the affiant.

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.

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

i. A notice of the penalty for making a false affidavit and that the individual will be required to provide an approved form or forms of identification showing the individual's qualification as an elector of the precinct to a member of the polling place election board while the polls remain open or to the specified appropriate

election official before the meeting of the canvassing board before the vote can be counted.

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

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

7. Upon the execution of the affidavit, the individual must be given a notice clearly stating the affiant's ballot will be counted if the affiant returns with approved identification to the polling place before the polls close or verifies the affiant's identity with the office of the appropriate election official before the meeting of the canvassing board. The notice also must state the hour at which the polls will close; the date, time, and location of the meeting of the canvassing board; and the address, location, and office hours of the appropriate election official.

8. The election inspector shall place the ballot of an individual who executes an affidavit under this section in a secure envelope designed by the secretary of state to protect the secrecy of the ballot.

9. If the elector returns to the polling place before the polls close and shows identification providing proof of qualification as an elector, the election inspector shall return the sealed envelope containing the individual's ballot to the voter to allow the voter to cast the ballot. The election inspector shall mark the voter's affidavit as "verified".

10. Each election inspector shall deliver to the appropriate election official a list including the name of each individual who executed an affidavit under this section who has not returned to verify the individual's qualification as an elector and each ballot cast by an individual on the list. The election official shall maintain the ballots in a secure manner until forwarding the ballot of each affiant verified to the official's office with approved identification to the canvassing board for canvassing and forward the remaining ballots to the county canvassing board marked as "rejected - elector failed to verify qualification".

SECTION 4. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

Poll checkers.

The district chairman of each political party represented on the election board may appoint up to three poll checkers to a polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

SECTION 5. AMENDMENT. Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-06.1. Paying for certain election-related activities prohibited.

~~No~~

1. A person may not pay ~~another person~~any individual for:
   ~~1.~~ a. Any loss or damage due to attendance at the polls;
   ~~2.~~ b. Registering;
   ~~3.~~ c. The expense of transportation to or from the polls; or
   ~~4.~~ d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. This section ~~do~~does not apply to the hiring of ~~a person~~an individual whose ~~sole duty it is to act as a challenger~~duties are to observe the polls and to watch the count of official ballots.

SECTION 6. AMENDMENT. Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-06. Reports and pollbooks sent to county auditor - Compensation for making returns.

Immediately following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver one of the signed canvass reports provided for in section 16.1-15-04 to the county auditor. The sealed ballots of voters executing affidavits under section 16.1-05-07 and reports,

carefully sealed under cover, accompanied by the pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official.

SECTION 7. AMENDMENT. Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-08. Wrapping and returning of ballots to county recorder.

After generating the reports and poll lists provided for in section 16.1-15-06 <u>and providing the sealed ballots of voters executing affidavits provided for in section 16.1-05-07</u> for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county if these votes were not canvassed by the polling place election board on election night according to section 16.1-12-02.2. At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as

provided in this section. The sealed ballot of any voter whose affidavit has been verified with the county auditor must be delivered to the canvassing board for tabulation.

SECTION 8. AMENDMENT. Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:

58-04-09. ~~Challenge to voter -~~ Duty of judges.

If any ~~person~~individual offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified using the criteria provided in ~~section 16.1-05-06~~chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in ~~section 16.1-05-06~~chapter 16.1-05 to the circumstances of the township meeting.

SECTION 9. REPEAL. Section 16.1-05-06 of the North Dakota Century Code is repealed.