

ELECTIONS

CHAPTER 186

HOUSE BILL NO. 1380

(Representatives L. Meier, Haas, Weiler)
(Senator Dever)

ELECTION PROCEDURES

AN ACT to amend and reenact section 16.1-01-02.2, subsection 4 of section 16.1-01-04, section 16.1-01-05.1, and subsections 1 and 2 of section 16.1-01-09 of the North Dakota Century Code, relating to general procedures for elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-02.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-02.2. Special election - Special procedures. Notwithstanding any other provision of law, the governor may call a special election to be held in ~~thirty to fifty~~ ninety days after the call if a special session of the legislative assembly has been held, any of the ninety-day period for the submission of a referendum petition to the secretary of state with respect to any measure enacted during the special session occurs during a regular legislative session, and a referendum petition has been submitted to refer a measure or part of a measure enacted during the special session. Notwithstanding any other provision of law, the governor may call a special election to be held in ~~thirty to fifty~~ ninety days after the call if a referendum petition has been submitted to refer a measure or part of a measure that establishes a legislative redistricting plan.

~~The secretary of state shall reduce all the deadlines, including those necessary for filing, appointments, and election material preparation, to ensure that the election is held as allowed by this section. If time constraints make it impossible for a county auditor to comply with the publication requirements of section 16.1-13-05, the sample ballot and election notice may be published only once. The provisions of chapter 46-02 concerning competitive bidding and of subsection 2 of section 16.1-01-04 and subsection 2 of section 16.1-05-03 with respect to election training sessions do not apply to this election.~~

SECTION 2. AMENDMENT. Subsection 4 of section 16.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by individuals convicted and sentenced for ~~treason or a~~ felony must be limited according to chapter 12.1-33.

SECTION 3. AMENDMENT. Section 16.1-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-05.1. Voter lists - Addition or transfer of names. ~~In a county in which the county auditor prepares a list of the persons who voted at a prior election and provides the list to voting precincts on election day, the county auditor, with the approval of the secretary of state, may~~ Through the use of the central voter file provided for in chapter 16.1-02, the secretary of state shall establish a procedure by which a person ~~county auditor~~ may transfer that a person's name from the voter list of one precinct to the voter list of another precinct in the county state if that person establishes a new residence, and by which a person who establishes residence in the county state may have that person's name placed on the voter list in the appropriate precinct. The procedure provided for in this section may not be used to require the registration of electors.

SECTION 4. AMENDMENT. Subsections 1 and 2 of section 16.1-01-09 of the North Dakota Century Code are amended and reenacted as follows:

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 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 may sign any initiative or referendum petition circulated pursuant to article III of the Constitution of North Dakota unless the person is a qualified elector. No person may 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 circulating the petition. A referendum or initiative petition must be in substantially the following 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 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.

[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 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.

Approved April 13, 2007

Filed April 16, 2007

CHAPTER 187

SENATE BILL NO. 2237

(Senators J. Lee, Dever, Triplett)
(Representative L. Meier)

CENTRAL VOTER FILE LISTING

AN ACT to amend and reenact sections 16.1-02-07, 16.1-02-09, 16.1-02-13, and 16.1-02-15 of the North Dakota Century Code, relating to the central voter file.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 2. AMENDMENT. Section 16.1-02-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-09. Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.

1. The department of transportation shall report regularly to the secretary of state any relevant changes and updates to records maintained by the department of transportation which may require changes and updates to be made to records of individuals contained in the central voter file.
2. The county auditor may change the designation of individuals contained in the central voter file whose change of address can be confirmed by the United States postal service. The secretary of state may provide each county auditor with periodic reports on any individual whose change of address can be confirmed by the United States postal service.

3. ~~If an individual makes a written request to the county auditor for removal of the individual's record from the central voter file, the county auditor shall change the designation of the individual contained in the central voter file to "inactive".~~
4. If a qualified elector makes a written request to the county auditor for inclusion in the central voter file, the county auditor shall collect the required information from the individual and add the individual's name to the central voter file with the designation of "inactive".

SECTION 3. 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 ~~is an~~ are exempt record 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 4. AMENDMENT. Section 16.1-02-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-15. Voter lists and reports may be made available for election-related purposes - Funds received. Except as otherwise provided by law, a voter list or a report generated from the central voter file may be made available to a candidate, political party, or a political committee for election-related purposes. Any information obtained by a candidate, political party, or political committee for election-related purposes from a list or report generated from the central voter file may not be sold or distributed for a purpose that is not election-related. Except for information identified in the central voter file under subsections 1, 2, 3, 5, 6, 7, and 8 of section 16.1-02-12, which may be made available to a candidate, political party, or political committee for election-related purposes, information in the central voter file is an exempt record. An individual's record that is designated as "secured active" is an exempt record and is not available to any candidate, political party, or political committee for any purpose. Any funds received by the secretary of state to pay the cost of producing a report or list of voters contained in the central voter file must be deposited in the secretary of state's general services operating fund.

Approved May 4, 2007

Filed May 4, 2007

CHAPTER 188

HOUSE BILL NO. 1378

(Representatives Haas, L. Meier)
(Senators Dever, Krebsbach)

COUNTY VOTE CENTERS

AN ACT to create and enact a new subsection to section 16.1-04-02 of the North Dakota Century Code, relating to polling places; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 16.1-04-02 of the North Dakota Century Code is created and enacted as follows:

May utilize vote centers that contain all of the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling location. Qualified electors may vote early at early voting precincts, by absentee ballot, at the polling location of their residential precinct, or at a county vote center. Vote center polling places must serve as the designated polling place for at least one precinct in the county in addition to serving as the site where any county voter may cast a ballot. An individual voting or attempting to vote more than once in any single election is guilty of a class A misdemeanor.

Approved March 21, 2007
Filed March 21, 2007

CHAPTER 189

SENATE BILL NO. 2238

(Senators J. Lee, Dever)
(Representative L. Meier)

ELECTION OFFICERS

AN ACT to amend and reenact section 16.1-05-01, subsection 5 of section 16.1-05-02, subsections 3 and 4 of section 16.1-05-04, and subsections 4 and 5 of section 16.1-05-06 of the North Dakota Century Code, relating to election officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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. ~~In~~ 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 ~~other~~ 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.

~~Except in the case of special elections, all~~ All appointments required to be made under this section must be made at least ~~twenty-one~~ forty days preceding an election.

2. The election judges ~~and poll clerks~~ 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. ~~In polling places in which over three hundred votes are cast in any election, each district party chair may appoint additional poll clerks as determined by the county auditor.~~

3. 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 ~~and poll clerks~~ at least ~~twenty-one~~ 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 ~~and poll clerks~~. If the county auditor has exhausted all practicable means to select judges ~~and clerks~~ from within the boundaries of the precincts within the polling place and vacancies still remain, the county auditor may select election judges ~~and clerks~~ 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 ~~and clerks~~ who reside outside of the legislative districts but who reside within the county.
4. If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that any election judge ~~or poll clerk~~ is disqualified under this chapter, the inspector shall remove that judge ~~or clerk~~ at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge ~~or clerk~~ removed. If the disqualified judge ~~or clerk~~ had taken the oath of office as prescribed in this chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.
5. 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. 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 2. AMENDMENT. Subsection 5 of section 16.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

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 to serve in the absent person's place. In filling a vacancy in the office of election judge or clerk, the remainder of the board shall select a person of the absent person's political party if such a person is reasonably available. The office of election inspector may be filled by any qualified person 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 3. AMENDMENT. Subsections 3 and 4 of section 16.1-05-04 of the North Dakota Century Code are 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 ~~pollbooks~~ pollbook. The designated poll clerks shall maintain the ~~pollbooks~~ pollbook. ~~Each~~ The pollbook must contain the name and address of each person 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.

SECTION 4. AMENDMENT. Subsections 4 and 5 of section 16.1-05-06 of the North Dakota Century Code are amended and reenacted as follows:

4. The affidavit must include:
 - a. The name ~~and~~, 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 previous last name of the affiant if it was different when the affiant last voted.
 - c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
 - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
 - e. 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 ~~may~~ 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.

Approved April 5, 2007
Filed April 5, 2007

CHAPTER 190

SENATE BILL NO. 2233

(Senator Dever)
(Representative L. Meier)

ELECTION BALLOTS AND VOTING

AN ACT to amend and reenact subsection 7 of section 16.1-06-04, sections 16.1-06-10.1 and 16.1-06-11, subsection 2 of section 16.1-06-17, and sections 16.1-06-18, 16.1-06-19, 16.1-06-20, 16.1-06-21, 16.1-06-22, and 16.1-06-23 of the North Dakota Century Code, relating to election ballots and voting systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 16.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

- Provide two text boxes in the bottom right-hand corner of the party ballot. The first text box is to contain the words "All ballots, other than those used to vote absentee, must first be initialed by appropriate election officials in order to be counted." The second text box is to contain the words "Official Ballot", the name of the county, the name or number of the precinct ~~or the word "precinct" preceding a blank line upon which the judge or the inspector shall write the name or number of the precinct~~, the date of the election, and the word "initials" preceding a blank line where the judge or inspector shall initial the ballot.

All ballots, other than
those used to vote absentee,
must first be initialed by
appropriate election officials
in order to be counted

Official Ballot
_____ County
_____ Precinct
(Date of the Election)
Initials _____

SECTION 2. AMENDMENT. Section 16.1-06-10.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-10.1. Electronic counting machines authorized - Sharing of machines. The use of electronic counting machines is authorized in any election precinct upon finding and declaration by resolution of the city ~~or township~~ governing body, and also of the board of county commissioners of the county in which the election precinct is located, that the use is advisable or necessary in that precinct. Thereafter, electronic counting machines may be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city ~~or township~~ and county, agreed upon by the respective governing bodies, provided the machines being procured have been certified for procurement and use in the state by the secretary of state according to section 16.1-06-26. Two or more counties may enter an agreement concerning the shared use and transport between counties of electronic counting machines and apportioning of expenses. Any electronic counting machine used in an election must be so constructed that when properly operated it registers or records correctly and accurately every vote cast.

SECTION 3. AMENDMENT. Section 16.1-06-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-11. Electronic voting systems authorized. The use of electronic voting systems in accordance with the provisions of this chapter is hereby authorized in any election precinct upon finding and declaration by resolution of the city or ~~township~~ governing body, and also of the board of county commissioners of the county in which such election precinct is located, that such use is advisable or necessary in that precinct. Thereafter, a system or systems may be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city or ~~township~~ and county, agreed upon by the respective governing bodies, provided the system or systems being procured have been approved and certified for procurement and use in the state by the secretary of state according to section 16.1-06-26. The system or systems may then be used in any state, county, city, or district election in that precinct or other voting area of which that precinct is a part.

SECTION 4. AMENDMENT. Subsection 2 of section 16.1-06-17 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~Four~~ One facsimile ~~diagrams~~ diagram of the entire face of the electronic voting system device as it will appear on election day.

SECTION 5. AMENDMENT. Section 16.1-06-18 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-18. Delivery of ballots. ~~At the precinct election officials' training sessions provided for in section 16.1-05-03, the county~~ County auditors shall deliver, or cause to be delivered, by mail or other reliable method, to the inspector of elections in each precinct the official ballots, if available. The ballots must be delivered in sealed packages marked plainly ~~on the outside designating the number of ballots enclosed and with~~ the precinct for which the ballots are intended. The county auditor also shall deliver or cause to be delivered a suitable seal; ~~which has the name of the county inscribed thereon~~, for the purpose of sealing the wrapper containing the ballots as provided in section 16.1-15-08.

SECTION 6. AMENDMENT. Section 16.1-06-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places. Each county auditor shall have ~~cards~~ posters printed, in large type, containing full instructions to electors on obtaining and voting ballots and a copy of section 16.1-01-12, any federal laws regarding prohibitions on acts of fraud and misrepresentations, and general information on voting rights under applicable federal and state laws, including instructions on how to contact the appropriate officials if these rights are alleged to have been violated. The county auditor shall furnish ~~ten~~ at least one such ~~cards~~ poster to the election inspector in each election ~~precinct~~ polling place who, before the opening of the polls, shall conspicuously post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least one of the ~~cards~~ poster in the polling place. ~~Three of the official ballots without the initials of an election board member thereon must be posted conspicuously in the polling place on the morning of the election.~~ The county auditor, at the time of delivering the ballots to the inspector of elections in each ~~precinct~~ polling place, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. One of the newspaper publications

or copies must be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each ~~precinct~~ polling place with four copies of a map showing the election precinct's boundaries and information regarding the date of the election and the hours during which polling places will be open. The inspector shall, before the opening of the polls, post the maps and information regarding the date of the election and the hours during which polling places will be open at the entry to and in other conspicuous places around the polling place.

SECTION 7. AMENDMENT. Section 16.1-06-20 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-20. Election inspector and judges to display material and provide instruction. In addition to other duties provided by law, the election inspector ~~shall post in a conspicuous manner at the voting place the two facsimile diagrams of the voting devices used to vote with electronic voting systems and three copies of the official ballot used with electronic voting systems.~~ The election inspector and judges shall provide adequate instruction on the use of the electronic voting device to each voter before the voter enters the voting booth.

SECTION 8. AMENDMENT. Section 16.1-06-21 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-21. Pollbooks delivered by county auditor - Contents - Inspector of elections to deliver. The county auditor shall see that ~~two copies of the new one~~ paper or electronic pollbook ~~are~~ is delivered to the election inspector in each election precinct or polling place in the county. ~~The following information must be provided to the inspector and may be contained in each new pollbook:~~

- 1- ~~A copy of the law prescribing the qualifications of electors.~~
- 2- ~~A copy of the provisions of this title relating to the duties of inspectors, judges, and clerks of election.~~
- 3- ~~A statement of the penalties imposed for offenses against the election laws.~~
- 4- ~~Blanks for all entries required to be made in the pollbook or a preprinted listing of previous voters and blanks for the entry of new voters.~~

The election inspector shall deliver the ~~pollbooks~~ pollbook, or cause the ~~pollbooks~~ pollbook to be delivered, to the clerks of election in the inspector's ~~precinct~~ polling place on election day before the opening of the polls.

SECTION 9. AMENDMENT. Section 16.1-06-22 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-22. County to provide ballot boxes. The board of county commissioners, at the expense of the county, shall provide suitable ballot boxes for each election ~~precinct~~ polling place in the county.

SECTION 10. AMENDMENT. Section 16.1-06-23 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-23. Secretary of state to send instructions and envelopes to county auditor to make returns. The secretary of state shall send instructions for generating reports ~~and envelopes~~, for all returns of votes required to be made to the secretary of state's office; ~~to each county auditor with such printed directions on the envelope as the secretary of state deems necessary for the guidance of election officers in making returns according to law.~~ The expense of furnishing such instructions and envelopes must be paid by the state.

Approved March 7, 2007

Filed March 8, 2007

CHAPTER 191

SENATE BILL NO. 2235

(Senators Dever, Potter, Triplett)

(Representative L. Meier)

VOTING SYSTEM TESTING

AN ACT to amend and reenact section 16.1-06-15 of the North Dakota Century Code, relating to the security of the voting system programming and random testing of voting systems after an election.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-06-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-15. Mandatory testing of electronic voting systems before each election and ~~before~~ after tabulation of ballots.

1. All electronic voting systems used in this state must be tested to ascertain whether the automatic tabulating equipment will accurately count the votes cast for all offices and measures. The testing must be conducted prior to each election at which the system will be used. The testing must be done by the county auditor or county auditor's designee, and after each test, the testing materials and any preaudited ballots used during the test must be sealed and retained in the same manner as election materials after an election.
2. The test of an electronic voting system employing paper ballots must be conducted by processing a preaudited group of ballots on which are recorded a predetermined number of valid votes for each candidate and measure and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. During the test a different number of valid votes must be assigned to each candidate for an office and for and against each measure. If an error is detected, the cause of it must be ascertained and corrected, and an errorless count must be secured and filed as provided in this section.
3. The test must be conducted at least one week before the election. One week before the test is conducted, the county auditor must send the district chairman of each political party having a candidate on the ballot a notice of the test. The notice must state the time, place, and date of the test or tests and that the district chairman or district chairman's designee may attend.
4. At the conclusion of the test, the programming for each electronic voting device must be sealed within the device with a unique numbered seal that must be verified by the election inspector before the opening of the polls to make sure the programming has not been removed from the device.

5. After each election, the secretary of state shall order a random testing of the voting system programming for one precinct in each county of the state according to logic and accuracy testing procedures detailed in subsection 2 and as may be further defined by the secretary of state in writing. This test is to be conducted before the meeting of the county canvassing board.

Approved March 7, 2007

Filed March 8, 2007

CHAPTER 192

SENATE BILL NO. 2232

(Senators Oehlke, Dever, Triplett)
(Representative L. Meier)

ABSENTEE VOTING

AN ACT to amend and reenact sections 16.1-07-03 and 16.1-07-04, subsection 3 of section 16.1-07-05, subsections 1 and 2 of section 16.1-07-06, subsections 4 and 5 of section 16.1-07-08.1, section 16.1-07-09, and subdivision c of subsection 2 of section 16.1-07-15 of the North Dakota Century Code, relating to absentee voting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-07-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-03. Preparation and printing of ballots. For all general, primary, or special state elections, for all other special elections held at the same time as a general or primary election, for all county elections, and for all city and school elections official ballots must be prepared within the time limits provided in section 16.1-07-04. ~~In the case of special elections wherein the election is called less than forty or twenty days, as the case may be, before the election day, or where certification of candidates does not take place before the forty-day or twenty-day limitations, the ballots for the use of absentee voters must be made available as soon as possible.~~ Only official ballots may be used as absentee ballots and no indication may be noted on such ballots that they are used by absentee voters except that the return envelope must be marked "ballot of absentee voter". The county auditor, at the same time other absentee ballots are prepared, shall prepare, and have printed and available, ballots for use by overseas citizens qualified to vote in this state pursuant to section 16.1-07-01.

SECTION 2. AMENDMENT. Section 16.1-07-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-04. When ballots furnished proper officials. The county auditor, or any other officer required by law to prepare any general, special, or primary state election ballots or any county election ballots, shall prepare, have printed, and deliver to the county auditor at least forty days before the holding of any general, special, or primary state election a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. In city or school elections, the auditor or clerk of the city, the business manager of the school district, or any other officer required by law to prepare city or school election ballots shall prepare and have printed and available for distribution to the public at least ~~twenty~~ forty days before the holding of any city or school election a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. Officers authorized to distribute absent voter's ballots under this chapter shall ensure all ballots used as absent voter's ballots are secure at all times and accessible only to those persons under the officer's supervision for distribution.

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

3. Spouses, children, or other dependents of active duty uniformed service members of the United States armed forces or merchant marine who are qualified electors and stationed as a family outside the United States at a location other than that individual's voting residential address are granted the same absentee voting rights as the individual's spouse, parent, or guardian has under subsection 2.

SECTION 4. AMENDMENT. Subsections 1 and 2 of section 16.1-07-06 of the North Dakota Century Code are amended and reenacted as follows:

1. Application for an absent voter's ballot must be made on a form, prescribed by the secretary of state, to be furnished by the proper officer of the county, city, or school district in which the applicant is an elector, on any form, approved by the secretary of state, or any blank containing the following information:
 - a. The applicant's name.
 - b. The applicant's current or most recent North Dakota residential address.
 - c. The applicant's mailing address.
 - d. The applicant's current ~~home~~ telephone number.
 - e. The election for which the ballot is being requested.
 - f. The date of the request.
 - g. An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election.
 - h. The applicant's signature.
 - i. A space for the voter to include the voter's precinct or voting location, if known.
 - j. The applicant's birth date and year.
 - k. The applicant's motor vehicle operator's license or nondriver identification number, if available.

If the applicant is unable to sign the applicant's name, the applicant shall mark (X) on the application in the presence of a disinterested person. The disinterested person shall print the name of the person marking the X below the X and shall sign the disinterested person's own name following the printed name together with the notation "witness to the mark".

2. The application for a qualified elector serving on active duty as a uniformed service member of the United States armed forces, merchant marine, or a family member who is a qualified elector and stationed outside the United States together with the individual's spouse, parent, or guardian at a location other than that individual's voting residential address must include the following additional information if the voter desires to vote by facsimile or electronic mail:

- a. Facsimile telephone number; or
- b. Electronic mail address.

SECTION 5. AMENDMENT. Subsections 4 and 5 of section 16.1-07-08.1 of the North Dakota Century Code are amended and reenacted as follows:

4. If the voter is temporarily residing outside the United States or is a uniformed service member of the United States armed forces, merchant marine, or a family member and a qualified elector stationed at a location other than that individual's voting residential address, the voter may use the federal write-in absentee ballot in general, special, and primary elections for local, state, or federal offices or measures.
5. If the voter is residing outside the United States, or is a uniformed service member of the United States armed forces, merchant marine, or a family member, and a qualified elector stationed outside the United States at a location other than that individual's voting residential address, the voter may use the federal write-in absentee ballot transmission envelope as an absentee ballot application simultaneously with the submission of the federal write-in absentee ballot if the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted.

SECTION 6. AMENDMENT. Section 16.1-07-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-09. Canvassing of mailed absent voters' ballots received late. In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer within two days after the election to be canvassed and counted. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall ~~first~~ determine that the elector was qualified to vote in that precinct ~~and,~~ that the elector did not previously vote in that precinct on the date of the election, and that the signatures on the absentee ballot application and the voter's affidavit were signed by the same person before allowing the ballot to be tallied.

SECTION 7. AMENDMENT. Subdivision c of subsection 2 of section 16.1-07-15 of the North Dakota Century Code is amended and reenacted as follows:

- c. The county auditor, with the consent of the board of county commissioners, shall designate a space in a ~~government controlled~~ public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02, to locate the early voting precinct.

Approved April 5, 2007

Filed April 5, 2007

CHAPTER 193

HOUSE BILL NO. 1499

(Representative Berg)

(Senator Stenehjem)

CAMPAIGN FINANCE REPORTING

AN ACT to create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to campaign finance reporting; and to amend and reenact subsections 8 and 10 of section 16.1-08.1-01 and subdivision a of subsection 2 of section 16.1-10-02 of the North Dakota Century Code, relating to the definition of a political committee and a political purpose.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁶ **SECTION 1. AMENDMENT.** Subsections 8 and 10 of section 16.1-08.1-01 of the North Dakota Century Code are amended and reenacted as follows:

8. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes the following:
 - a. A political action committee, derived from a corporation, cooperative corporation, limited liability company, or an association that is prohibited from making direct contributions for political purposes under section 16.1-08.1-03.3, and which solicits or receives contributions or makes expenditures for political purposes;
 - b. A candidate committee, established to support an individual candidate seeking statewide office, that solicits or receives contributions for political purposes;
 - c. An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527], which solicits or receives contributions or makes expenditures for political purposes;
 - d. A multicandidate political committee, established to support multiple groups or slates of candidates seeking public office, that solicits or receives contributions for political purposes; and
 - ~~e.~~ e. A measure committee that solicits or receives contributions for the purpose of aiding or opposing a measure to be voted upon by the voters of the state.
10. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office

¹¹⁶ Section 16.1-08.1-01 was also amended by section 1 of House Bill No. 1375, chapter 194.

and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state office or any position taken in any bona fide news story, commentary, or editorial.

SECTION 2. A new section to chapter 16.1-08.1 of the North Dakota Century Code is created and enacted as follows:

1. An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527], which solicits or receives contributions or makes expenditures for political purposes, shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date the contribution was received. The statement must also include the amount of each reportable expenditure and the date the expenditure was made.
2. A preelection statement must be filed no later than the twelfth day before a primary, special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election.
3. A year-end statement covering the entire calendar year must be filed no later than the thirty-first day of January of the following year.
4. Even if such an organization has not received any contributions or made any expenditure in excess of two hundred dollars during the reporting period, the organization shall file a statement as required by this chapter.
5. A statement filed according to this section during the reporting period must show the following:
 - a. The gross total of all contributions received and expenditures made in excess of two hundred dollars;
 - b. The gross total of all contributions received and expenditures made of two hundred dollars or less; and
 - c. The cash on hand in the filer's account at the start and close of the reporting period.
6. The organization shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, that contributed five thousand dollars or more in the aggregate during the reporting period.

SECTION 3. AMENDMENT. Subdivision a of subsection 2 of section 16.1-10-02 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity was undertaken by a candidate, a political committee, a political party, or any other person but does not include activities undertaken in the performance of a duty of state or political subdivision office. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state office or a position taken in any bona fide news story, commentary, or editorial.

Approved April 10, 2007
Filed April 11, 2007

CHAPTER 194

HOUSE BILL NO. 1375

(Representatives Brandenburg, Grande, Haas, Kasper)
(Senator Dever)

CAMPAIGN FINANCE AND POLITICAL PARTY CONVENTION STATEMENTS

AN ACT to create and enact section 16.1-08.1-02.1 of the North Dakota Century Code, relating to state political party convention statements; and to amend and reenact subsection 11 of section 16.1-08.1-01, sections 16.1-08.1-03.2 and 16.1-08.1-03.3, subsections 1 and 4 of section 16.1-08.1-03.9, subsections 2, 3, 4, and 5 of section 16.1-08.1-03.11, section 16.1-08.1-05, and subsection 1 of section 16.1-08.1-06 of the North Dakota Century Code, relating to campaign finance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁷ **SECTION 1. AMENDMENT.** Subsection 11 of section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

11. "Public office" means every ~~statewide or legislative~~ office to which persons can be elected by vote of the people under the laws of this state.

SECTION 2. Section 16.1-08.1-02.1 of the North Dakota Century Code is created and enacted as follows:

16.1-08.1-02.1. State political party convention revenue and expense statement required.

1. State political parties shall establish separate and segregated accounts for the management of state nominating conventions. All revenue obtained and expenditures made for the planning and running of a state convention must be accounted for in these accounts.
2. A postconvention statement must be filed with the secretary of state sixty days after the close of the state nominating convention. The reporting period for the postconvention statement begins on the first day of January of the reporting year and ends thirty days after the close of the state nominating convention.
3. A year-end statement covering the entire calendar year must be filed with the secretary of state no later than the thirty-first day of January of the following year even if no convention revenue was received or expenditures made within the calendar year.

¹¹⁷ Section 16.1-08.1-01 was also amended by section 1 of House Bill No. 1499, chapter 193.

4. The statement filed according to this section must show the following:
 - a. The cash on hand in the filer's convention accounts at the start and close of the reporting period;
 - b. The gross total of all revenue received and expenditures made of two hundred dollars, or less;
 - c. The gross total of all revenue received and expenditures made in excess of two hundred dollars;
 - d. The aggregated totals of all revenue received from a single person or entity in excess of two hundred dollars, the name of each person or entity, the mailing address of each person or entity, the date of the most recent receipt of revenue from each person or entity, and the purpose or purposes for which the aggregated revenue total was received from each person or entity;
 - e. The aggregated totals of all expenditures made to a single person or entity in excess of two hundred dollars, the name of each person or entity, the mailing address of each person or entity, the date of the most recent expense made to each person or entity, and the purpose or purposes for which the aggregated expenditure total was disbursed to each person or entity; and
 - f. A political party shall report the occupation, employer, and principal place of business of each person from whom five thousand dollars or more of revenue was received in the aggregate during the reporting period.
5. For the purposes of this section, the term entity is defined as any group consisting of or representing more than one person.
6. If a net gain from the convention is transferred to the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as a contribution in the statements required by section 16.1-08.1-03.
7. If a net loss from the convention is covered by a transfer from the accounts established for the support of the nomination or election of candidates, the total transferred must be reported as an expenditure in the statements required by section 16.1-08.1-03.

SECTION 3. AMENDMENT. Section 16.1-08.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.2. Political committee registration. A statewide candidate, statewide candidate committee, political action committee, multicandidate committee, or a ~~political measure~~ committee, as described in section 16.1-08.1-01, ~~other than a political party and a committee organized in support of an individual legislative candidate,~~ shall register its name, address, and its agent's name and address with the secretary of state each calendar year in which it receives any contribution. The registration must be completed within fifteen business days of the receipt of any contribution or expenditure made and must be submitted with a registration fee of twenty-five dollars. A political committee that organizes and registers according to federal law and makes a disbursement in excess of two hundred dollars to a

nonfederal candidate seeking public office, a political party, or political committee in this state is not required to register as a political committee according to this section if the political committee reports according to section 16.1-08.1-03.7. Registration under this section does not reserve the name for exclusive use nor does it constitute registration of a trade name under chapter 47-25.

SECTION 4. AMENDMENT. Section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.3. Campaign contributions by corporations, cooperative corporations, limited liability companies, and associations prohibited - Violation - Penalty - Political action committees authorized.

1. A corporation, cooperative corporation, limited liability company, or association may not make a direct contribution:
 - a. To aid any political party, political committee, or organization.
 - b. To aid any corporation, limited liability company, or association organized or maintained for political purposes.
 - c. To aid any candidate for ~~political~~ public office or for nomination to ~~political~~ public office.
 - d. For any political purpose or the reimbursement or indemnification of any person for money or property so used.
 - e. For the influencing of any measure before the legislative assembly, except in accordance with chapter 54-05.1.
2. This section does not prohibit the establishment, administration, and solicitation of contributions to a separate and segregated fund to be utilized for political purposes by a corporation, cooperative corporation, limited liability company, or association. It is unlawful for:
 - a. The person or persons controlling the fund to make contributions or expenditures utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of them; or utilize money from dues, fees, treasury funds, or other money required as a condition of membership in an association, or as a condition of employment; or utilize money obtained in any commercial transaction. Moneys from fees, dues, treasury funds, or money obtained in a commercial transaction may, however, be used to pay costs of administration of the fund.
 - b. Any person soliciting an employee, stockholder, patron, or member for a contribution to the fund to fail to inform the employee or member of the political purposes of the fund at the time of the solicitation or of the general political philosophy intended to be advanced through committee activities.
 - c. Any person soliciting an employee or member for a contribution to the fund to fail to inform the employee or member at the time of the solicitation of the right to refuse to contribute without any reprisal.

- d. Any contribution to be accepted without keeping an accurate record of the contributor and amount contributed and of amounts expended for political purposes.
 - e. Any contribution to be accepted from any person who is not an employee, stockholder, patron, or member of the corporation, cooperative corporation, limited liability company, or association maintaining the political action committee.
 - f. Any expenditure; ~~except a contract, promise, or agreement, express or implied, to make any expenditure,~~ made for political purposes to be reported under this section before control of the expenditure has been released by the political action committee except if there is a contract, promise, or agreement, expressed or implied, to make such expenditure.
3. All political action committees, as described in section 16.1-08.1-01, formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A year-end statement covering the entire calendar year must be filed no later than the thirty-first day of January of the following year. A preelection statement must be filed no later than the twelfth day before any primary, special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election. Even if a political action committee has not received any contributions or made any expenditures in excess of two hundred dollars during the reporting period, the political action committee shall file a statement as required by this chapter. A statement filed according to this section during the reporting period must show the following:
 - a. The gross total of all contributions received and expenditures made in excess of two hundred dollars;
 - b. The gross total of all contributions received and expenditures made of two hundred dollars, or less; and
 - c. The cash on hand in the filer's account at the start and close of the reporting period.
4. A political action committee shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, who contributed five thousand dollars or more in the aggregate during the reporting period.
5. A person may not make a payment of that person's money or of another person's money to any other person for a political purpose in any name other than that of the person who supplies the money and a person may not knowingly receive the payment nor enter nor cause the payment to

be entered in that person's account or record in any name other than that of the person by whom it actually was furnished.

6. If an officer, employee, agent, attorney, or other representative of a corporation, cooperative corporation, limited liability company, or association makes any contribution prohibited by this section out of corporate, cooperative corporation, limited liability company, or association funds or otherwise violates this section, it is prima facie evidence of a violation by the corporation, cooperative corporation, limited liability company, or association.
7. A violation of this section may be prosecuted in the county where the contribution is made or in any county in which it has been paid or distributed.
8. It is a class A misdemeanor for an officer, director, stockholder, manager, governor, member, attorney, agent, or representative of any corporation, cooperative corporation, limited liability company, or association to violate this section or to counsel or consent to any violation. Any person who solicits or knowingly receives any contribution in violation of this section is guilty of a class A misdemeanor.
9. Any officer, director, stockholder, manager, governor, member, attorney, agent, or representative who makes, counsels, or consents to the making of a contribution in violation of this section is liable to the company, corporation, limited liability company, or association for the amount so contributed.

SECTION 5. AMENDMENT. Subsections 1 and 4 of section 16.1-08.1-03.9 of the North Dakota Century Code are amended and reenacted as follows:

1. A judicial district candidate or a candidate committee for a judicial district candidate shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:
 - a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
 - b. The aggregated amount of the contributions from each listed contributor; ~~and~~
 - c. The date the last contribution was received from each listed contributor;
 - d. The gross total of all contributions received of two hundred dollars, or less; and
 - e. The cash on hand in the filer's account at the start and close of the reporting period.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the secretary of state ~~for any~~

year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.

SECTION 6. AMENDMENT. Subsections 2, 3, 4, and 5 of section 16.1-08.1-03.11 of the North Dakota Century Code are amended and reenacted as follows:

2. A candidate or a candidate committee described in this section shall file a statement with the county city auditor no later than the twelfth day before the date of the any election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the twentieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the county city auditor no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the county city auditor for any year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the county city auditor must be:
 - a. Deemed properly filed when deposited with or delivered to the county city auditor within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the county city auditor within the prescribed time. If the county city auditor does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the county city auditor of its nonreceipt.
 - b. Preserved by the county city auditor for a period of four years from the date of filing. The statement is to be considered a part of the public records of the county city auditor and must be open to public inspection.

SECTION 7. AMENDMENT. Section 16.1-08.1-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-05. Audit by secretary of state - Requested audits - Reports.

1. If a substantial irregularity is evident or reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, to be performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state. If an audit of a statement arranged by the secretary of state under this subsection

reveals a violation of this chapter, the candidate, political party, or political committee filing the statement shall pay a fine to the secretary of state equal to five percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be paid for by the secretary of state.

2. If a substantial irregularity is reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state, upon written request by any interested party made to the secretary of state within thirty days following receipt of a statement by the secretary of state. The request must be made in writing, recite a substantial irregularity and a lawful reason for requesting an audit, and be accompanied by a bond in an amount established by the secretary of state sufficient to pay the cost of the audit. If an audit of a statement arranged by the secretary of state under this subsection reveals a violation of this chapter, the candidate, political party, or political committee filing the statement shall pay a fine to the secretary of state equal to five percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater, and the bond shall be returned to the person submitting it. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be satisfied from the bond filed with the secretary of state.

An audit may not be made or requested of a statement for the sole reason that it was not timely filed with the secretary of state. An audit made or arranged according to this section must audit only those items required to be included in any statement, registration, or report filed with the secretary of state according to this chapter. The secretary of state may collect any payment obligation arising out of this section by civil action or by assignment to a collection agency, with any costs of collection to be added to the amount owed and to be paid by the delinquent filer. Any remaining moneys collected by the secretary of state after an audit is paid for under this section must be deposited in the state's general fund. This section does not apply to statements filed according to ~~section 16.1-08.1-03.9~~ sections 16.1-08.1-03.10 and 16.1-08.1-03.11.

SECTION 8. AMENDMENT. Subsection 1 of section 16.1-08.1-06 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~Except for a statement required to be filed under section 16.1-08.1-03.9,~~ any other Any statement required by this chapter to be filed with the secretary of state must be:
 - a. Deemed properly filed when deposited with or delivered to the secretary of state within the prescribed time and in the format established by the secretary of state. A statement that is mailed is deemed properly filed when it is postmarked and directed to the secretary of state within the prescribed time. If the secretary of state does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt. After a statement has been filed, the secretary of state

may request or accept written clarification along with an amended statement from a candidate, political party, or political committee filing the statement when discrepancies, errors, or omissions on the statement are discovered by the secretary of state, the candidate, political party, or political committee filing the statement, or by any interested party reciting a lawful reason for requesting clarification and an amendment be made. When requesting an amended statement, the secretary of state shall establish a reasonable period of time, not to exceed ten days, agreed to by the candidate, political party, or political committee, for filing the amended statement with the secretary of state.

- b. Preserved by the secretary of state for a period of four years from the date of filing. The statement is to be considered a part of the public records of the secretary of state's office and must be open to public inspection.

Approved April 5, 2007
Filed April 5, 2007

CHAPTER 195

HOUSE BILL NO. 1243

(Representatives Kasper, Dosch, R. Kelsch)
(Senators Cook, Klein, Wardner)

POLITICAL ADVERTISEMENT FALSE INFORMATION

AN ACT to amend and reenact section 16.1-10-04 of the North Dakota Century Code, relating to publication of false information in political advertisements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁸ **SECTION 1. AMENDMENT.** Section 16.1-10-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-04. Publication of false information in political advertisements - Penalty. No A person may is guilty of a class A misdemeanor if that person knowingly sponsor, or with reckless disregard for its truth or falsity, publishes any political advertisement or news release that contains any assertion, representation, or statement of fact, including information concerning a candidate's prior public record, which the sponsor knows to be is untrue, deceptive, or misleading, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, constitutional amendment, or any other issue, question, or proposal on an election ballot, and whether such the publication is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters, or billboard advertisements, electronic transmission, or by any other public means. Any person who violates the provisions of this section is guilty of a class A misdemeanor. This section does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the political advertisement or news release.

Approved April 18, 2007
Filed April 19, 2007

¹¹⁸ Section 16.1-10-04 was also amended by section 1 of House Bill No. 1376, chapter 196.

CHAPTER 196

HOUSE BILL NO. 1376

(Representatives Grande, Brandenburg, Haas, Hatlestad)
(Senator Dever)

CORRUPT ELECTION PRACTICES

AN ACT to amend and reenact sections 16.1-10-04 and 16.1-10-06.2 of the North Dakota Century Code, relating to corrupt election practices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁹ **SECTION 1. AMENDMENT.** Section 16.1-10-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-04. Publication of false information in political advertisements - Penalty. ~~Ne~~ A person may not knowingly sponsor any political advertisement or news release that contains any assertion, representation, or statement of fact, including information concerning a candidate's prior public record, which the sponsor knows to be untrue, deceptive, or misleading, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, constitutional amendment, or any other issue, question, or proposal on an election ballot, and whether such publication is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters, ~~or~~ billboard advertisements, web sites, or by any other public means. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

SECTION 2. AMENDMENT. Section 16.1-10-06.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-06.2. Sale or distribution at polling place. ~~Ne~~ A person may not approach a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service. ~~This prohibition applies~~ A person may not approach a person attempting to enter a polling place, who is in a polling place, or who is leaving a polling place for the purpose of gathering signatures for any reason. These prohibitions apply in any polling place or within one hundred feet [30.48 meters] from any entrance leading into a polling place on election day.

Approved March 5, 2007
Filed March 6, 2007

¹¹⁹ Section 16.1-10-04 was also amended by section 1 of House Bill No. 1243, chapter 195.

CHAPTER 197

SENATE BILL NO. 2234

(Senators Dever, Triplett)

(Representatives L. Meier, Potter)

PRIMARY ELECTIONS

AN ACT to amend and reenact subsections 1 and 2 of section 16.1-11-06, section 16.1-11-10, subsection 1 of section 16.1-11-11, subdivision a of subsection 2 of section 16.1-11-11, subdivision a of subsection 1 of section 16.1-11-16, subsection 1 of section 16.1-11-21, subsection 2 of section 16.1-11-26, and section 16.1-11-32 of the North Dakota Century Code, relating to primary elections; and to repeal section 16.1-11-07 of the North Dakota Century Code, relating to presidential preference contests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 16.1-11-06 of the North Dakota Century Code are amended and reenacted as follows:

1. A 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. A petition containing the following:
 - a. 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. The name of the party the candidate represents if the petition is for an office under party designation.
 - c. The signatures of qualified electors, the number of which must be determined as follows:
 - (1) 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) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
 - (3) If the office is under the no-party designation, at least three hundred signatures.
 - d. The mailing address and the date of signing for each signer.

SECTION 2. AMENDMENT. Section 16.1-11-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-10. Applicant's name placed upon ballot - Affidavit to accompany petition. Upon receipt by the secretary of state of the petition or certificate of endorsement provided for in section 16.1-11-06 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the primary election ballot in the columns of the applicant's party as hereinafter provided. The affidavit must be substantially as follows:

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

I, _____, being sworn, say that I reside in the county of _____ and state of North Dakota; that I am a candidate for nomination to the office of _____ to be chosen at the primary election to be held on _____, _____, and I request that my name be printed upon the primary election ballot as provided by law, as a candidate of the _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

Ballot name requested

Candidate's signature

Subscribed and sworn to before me on _____, _____.

NOTARY SEAL
Notary Public _____
My Commission Expires _____

¹²⁰ **SECTION 3. AMENDMENT.** Subsection 1 of section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

1. A certificate of endorsement signed by the district 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 that the candidate represents; or

¹²¹ **SECTION 4. AMENDMENT.** Subdivision a of subsection 2 of section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

¹²⁰ Section 16.1-11-11 was also amended by section 4 of Senate Bill No. 2234, chapter 197.
¹²¹ Section 16.1-11-11 was also amended by section 3 of Senate Bill No. 2234, chapter 197.

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

SECTION 5. AMENDMENT. Subdivision a of subsection 1 of section 16.1-11-16 of the North Dakota Century Code is amended and reenacted as follows:

- a. The candidate's name, address, and telephone number and the title of the office to which the candidate aspires, including the appropriate district number if applicable, or whether the petition is intended for an unexpired term of office if applicable.

SECTION 6. AMENDMENT. Subsection 1 of section 16.1-11-21 of the North Dakota Century Code is amended and reenacted as follows:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the county auditor. The form of the sample ballot must conform in all respects to the form prescribed for the sample primary ballot by the secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. Absent voters' ballots may not be considered in determining which form of voting is used. Candidates from each legislative district that falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. ~~Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled.~~

SECTION 7. AMENDMENT. Subsection 2 of section 16.1-11-26 of the North Dakota Century Code is amended and reenacted as follows:

2. Legislative:

state senator _____ district

~~member of house of representatives~~ state representative
_____ district

SECTION 8. AMENDMENT. Section 16.1-11-32 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-32. Poll lists kept by clerks of elections. The clerks of primary elections shall keep ~~two lists~~ either one paper or one electronic list of the names of all persons voting at each primary election. ~~Each clerk shall return one~~ The clerks must return the list, which must be a part of the records and filed with other election returns. Only ~~two one complete lists~~ list of voters may be kept whether or not a special election is held simultaneously with the primary election.

SECTION 9. REPEAL. Section 16.1-11-07 of the North Dakota Century Code is repealed.

Approved April 4, 2007

Filed April 5, 2007

CHAPTER 198

SENATE BILL NO. 2230

(Senators Oehlke, Dever)

(Representative L. Meier)

MAIL BALLOT ELECTIONS

AN ACT to amend and reenact sections 16.1-11.1-01, 16.1-11.1-02, 16.1-11.1-03, 16.1-11.1-04, and 16.1-11.1-06 of the North Dakota Century Code, relating to mail ballot elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-11.1-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-01. Counties may conduct mail ballot elections - Polling places - Records. The board of county commissioners of a county may conduct a ~~primary~~ an election by mail ballot. The mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate at least one polling place in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the ~~primary~~ primary election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.

SECTION 2. AMENDMENT. Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-02. Application for mail ballots. The county auditor shall mail an application form for a mail ballot to each person listed in the ~~pollbooks of central voter file~~ pollbooks of central voter file for the county ~~from the last regular statewide election~~ on one date no sooner than the forty-fifth day before the election and no later than the thirtieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the following form:

I, _____, am or will be a qualified elector and to my best
(please print name)

knowledge and belief am or will be entitled to vote at the ~~primary~~ primary election. I apply for an official mail ballot to be voted by me at that election. I understand that it is a criminal offense to knowingly vote when not qualified to do so.

I have or will have resided at the below address for at least thirty days before the election. My telephone number is _____.

Dated _____, _____.

(Signature of Applicant)

(Mailing Address)

_____, North Dakota _____
(City) (Zip Code)

SECTION 3. AMENDMENT. Section 16.1-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-03. Mail ballot distribution. The county auditor shall mail an official mail ballot with a return identification envelope and instructions sufficient to describe the voting process to each qualified elector who returns a properly completed application form to the auditor by five p.m. on the fourth day before the election. The voting instructions must contain a statement informing the elector that the elector is entitled to complete the mail ballot in secrecy. The auditor shall mail the ballot by first-class mail, addressed to the address of the elector completing and returning a mail ballot application, and placed in an envelope that is prominently marked "Do Not Forward". The return identification envelope must contain the following form:

I, _____, under penalty of possible criminal prosecution for
(please print name)

making a false statement, certify that I am or will be a qualified elector for the ~~primary~~ election and have not and will not vote more than one ballot in this election. I also understand that failure to complete the information below will invalidate my ballot.

(Signature of Voter)

(Mailing Address)

_____, North Dakota _____
(City) (Zip Code)

SECTION 4. AMENDMENT. Section 16.1-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-04. Voting by electors. Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope, and comply with the instructions provided with the ballot. The elector may return the completed ballot to the county auditor by mail or, before ~~six~~ five p.m. on the day ~~of~~ before the election, to any other place of deposit designated by the auditor. If the elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be postmarked no later than the day before the election.

SECTION 5. AMENDMENT. Section 16.1-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-06. Canvass of votes - Special election board. The county auditor shall appoint a special election board for the purpose of counting mail ballots. The board may ~~not begin counting~~ scan the ballots ~~until six p.m. after the polls open~~ on the day of the election but may not total the results until the closing time of the polls. A county conducting a mail ballot election constitutes one voting area, and ballots need not be sorted according to precinct or ward unless necessary for the administration of the election.

Approved March 5, 2007

Filed March 6, 2007

CHAPTER 199

HOUSE BILL NO. 1379

(Representatives L. Meier, Grande, Haas)
(Senators Dever, Krebsbach)

WRITE-IN VOTE THRESHOLDS

AN ACT to amend and reenact subdivision d of subsection 1 of section 16.1-12-02.2 of the North Dakota Century Code, relating to canvassing of write-in vote thresholds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision d of subsection 1 of section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

- d. Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the ~~clock of district court~~ county recorder no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in candidate's name has been written on the ballot opposite the office to be voted for or because of any other cogent evidence of intent.

Approved April 13, 2007
Filed April 26, 2007

CHAPTER 200

SENATE BILL NO. 2239

(Senators J. Lee, Dever)
(Representative Potter)

GENERAL ELECTION ADMINISTRATION

AN ACT to amend and reenact subsection 1 of section 16.1-13-17 and sections 16.1-13-22 and 16.1-13-27 of the North Dakota Century Code, relating to general election provisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 16.1-13-17 of the North Dakota Century Code is amended and reenacted as follows:

1. The name of each person nominated, that person's post-office address, phone number, the office for which that person is nominated, the legislative district number if applicable, and whether the certificate is intended for an unexpired term of office if applicable.

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

16.1-13-22. Delivering ballot to elector - Initialing. The inspector or one of the election judges shall deliver ballots to the qualified electors. The inspector or judge delivering the paper ballot shall inform each elector that if the ballot is not ~~stamped and~~ initialed by an election official it will be invalidated and to protect the elector's right to vote the elector should verify that the ballot has been ~~stamped and~~ initialed. Before delivering any paper ballot to an elector, the inspector or judge shall initial the ballot. Failure to initial a paper ballot in the proper place does not invalidate the ballot, but a complete failure to initial a paper ballot does invalidate the ballot.

1. ~~At primary elections, the inspector or judge shall also inform each elector that if the elector splits the party ballot or votes for candidates of more than one party the elector's party ballot will be rejected.~~
2. ~~Before delivering any paper ballot to an elector, the inspector or judge shall initial the ballot. Failure to initial a paper ballot in the proper place does not invalidate the ballot, but a complete failure to initial a paper ballot does invalidate the ballot.~~

SECTION 3. AMENDMENT. Section 16.1-13-27 of the North Dakota Century Code is amended and reenacted as follows:

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

Approved May 4, 2007

Filed May 4, 2007

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

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

Approved March 7, 2007
Filed March 8, 2007

CHAPTER 202

HOUSE BILL NO. 1377

(Representatives Grande, Haas, Heller, Kasper)
(Senator Dever)

CANVASSING ELECTIONS

AN ACT to amend and reenact sections 16.1-15-06 and 16.1-15-08, subsection 6 of section 16.1-15-09, and sections 16.1-15-13, 16.1-15-15, 16.1-15-19, 16.1-15-22, 16.1-15-25, and 16.1-15-26 of the North Dakota Century Code, relating to canvassing elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 reports, carefully sealed under cover, accompanied by ~~both of the pollbooks~~ 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 2. 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 clerk of the district court county recorder. After generating the reports and poll lists provided for in section 16.1-15-06 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 ~~secretary of state~~ 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 ~~clerk of the district court~~ county recorder. At the meeting of the county canvassing board, the ~~clerk of the district court~~ county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county. At the meeting of the county canvassing board, the ~~clerk of the~~

~~district court~~ 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.

SECTION 3. AMENDMENT. Subsection 6 of section 16.1-15-09 of the North Dakota Century Code is amended and reenacted as follows:

6. If any electronic voting system ballot or a ballot counted by an electronic counting machine is damaged or defective so that it cannot be properly counted by the automatic tabulating or electronic counting equipment, a true duplicate copy must be made by election officials of opposed interests and substituted for the damaged or defective ballot. All duplicate ballots must be clearly labeled duplicate, must bear a serial number that must be recorded on the damaged or defective ballot, and must be wrapped and delivered with other ballots to the ~~district judge or to the clerk of district court~~ county recorder.

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

16.1-15-13. ~~District judge or clerk of district court~~ County recorder to keep ballots - Exception - Use of ballots as evidence. Immediately upon receiving the ballots as provided in section 16.1-15-08, the ~~district judge or the clerk of district court~~ county recorder shall give a receipt to the election judges and shall place the ballots properly arranged in the order of the precinct number in boxes that shall be securely locked. The boxes must be placed in a fireproof vault and must be kept securely for forty-five days if the ballots do not contain federal offices and twenty-two months if the ballots contain federal offices. With the exception of the ballots containing lawful write-in votes that may be counted at the meeting of the county canvassing board, the ballots may not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. Either forty-five days or twenty-two months after the election dependent upon the retention schedule outlined in this section, upon determination by the ~~district judge or the clerk of district court~~ county recorder that no contest is pending, the ballots must be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of such time, the ballots may not be destroyed until the contest or prosecution is finally determined. The ballots returned to the ~~district judge or clerk of district court~~ county recorder as provided in this section must be received in evidence without introducing further foundation.

SECTION 5. 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 ~~clerk of the district court~~ 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. 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 ~~clerk of the district court~~ 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 6. AMENDMENT. Section 16.1-15-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-19. County canvassing board to disregard technicalities, misspelling, and abbreviations - Write-in votes canvassed - Votes from unestablished precincts disregarded. In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the name of any candidate for office if it can be ascertained for whom the vote was intended. Pursuant to section 16.1-12-02.2, the board shall canvass all qualifying write-in votes. The board may not count votes polled in any place except at established precincts. The county canvassing board is authorized to initial all absentee ballots cast pursuant to section 16.1-07-09 that were not considered or counted ~~or by election boards and to make a final determination of eligibility for all ballots which~~ were rejected at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12.

SECTION 7. AMENDMENT. Section 16.1-15-22 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election. The county auditor of each county, ~~under the auditor's official seal, shall return~~ provide to the secretary of state ~~by registered or certified mail within ten days after the day of any primary election,~~ a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in the auditor's county and the votes cast for every candidate for nomination according to reporting instructions specified by the secretary of state. The abstract must also include the total number of votes cast for initiated or referred measures and constitutional amendments. The certified abstract ~~to be mailed under this section~~ must be in the possession of the secretary of state before four p.m. on the tenth day after the primary election.

SECTION 8. AMENDMENT. Section 16.1-15-25 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-25. County auditor to forward abstract of votes of general election to secretary of state - Contents - Abstract for presidential electors. Within ten days and before four p.m. on the tenth day following any general election, the county auditor of each county, ~~under official seal, shall return~~ provide to the secretary of state a certified abstract of the votes cast in the county at the election according to the reporting instructions specified by the secretary of state. ~~All certified abstract of votes must be transmitted by registered or certified mail to the secretary of state.~~

SECTION 9. AMENDMENT. Section 16.1-15-26 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-26. Memorandum of date of receiving returns in secretary of state's office. A memorandum of the date of reception of all returns of votes in the secretary of state's office must be made ~~on the envelope containing the returns to~~ each county auditor.

Approved March 5, 2007

Filed March 6, 2007

CHAPTER 203

HOUSE BILL NO. 1374

(Representatives Boehning, Haas, Headland)
(Senator Dever)

ELECTION RECOUNTS

AN ACT to amend and reenact sections 16.1-16-01 and 16.1-16-07 of the North Dakota Century Code, relating to election recounts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 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 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 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 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 congressional, state, 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 congressional, state, 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 ~~clock of the district court of 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. Recount participants. The persons entitled to participate at the recount are:
- a. Each candidate involved in the recount, either personally or by a representative.

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

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official deems proper and shall then 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 ~~clerk of the district court of 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 may serve on the recount board if the person ~~would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02~~ 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 ~~stamp and~~ initial all absentee ballots cast pursuant to section 16.1-07-09 that were not considered or counted ~~or were rejected~~ 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.

7. 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.

- 8- 9. In congressional, statewide, district, or legislative recounts, the county auditor shall, no later than three days after the recount, send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state shall immediately assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the qualified electors accordingly.
- 9- 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 congressional, state, 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 requesting the recount.
- 40- 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 2. AMENDMENT. Section 16.1-16-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-16-07. Contest involving irregularity of ballots - Preservation of ballots. Either the contestant or the contestee, within the time provided by this title for the preservation of ballots, may give notice by certified mail to the ~~district judge or to the clerk of district court~~ county recorder of any county where the contestant or the contestee desires the ballots preserved, that an election contest is pending in a designated court. Thereupon, it is the duty of the ~~district judge or the clerk of district court~~ county recorder to preserve all the paper ballots and electronic voting system ballots and associated records until the contest has been finally determined.

Approved March 5, 2007

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