

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2254  
(Senator Dever)  
(Representative L. Meier)

AN ACT to amend and reenact sections 4-22-21, 15.1-09-13, 16.1-01-01, 16.1-02-03, 16.1-02-04, 16.1-02-09, 16.1-02-10, 16.1-02-12, 16.1-02-13, 16.1-02-15, and 16.1-03-11, subsection 1 of section 16.1-06-15, sections 16.1-07-08, 16.1-07-09, 16.1-07-10, 16.1-07-11, 16.1-07-12, and 16.1-07-12.1, subsection 1 of section 16.1-09-03, sections 16.1-10-03, 16.1-11-05, 16.1-11-20, 16.1-11-22, 16.1-11.1-01, 16.1-11.1-03, and 16.1-11.1-06, subsection 1 of section 16.1-11.1-07, subsection 1 of section 16.1-12-04, and sections 16.1-13-03, 16.1-15-04, 16.1-15-08, 16.1-15-21, 16.1-15-22, 16.1-15-25, 16.1-15-26, 16.1-15-27, 16.1-15-33, 16.1-15-37, 16.1-15-39, 16.1-15-40, 16.1-15-41, 16.1-15-44, 16.1-15-48, 40-38-01, and 61-04.1-30 of the North Dakota Century Code, relating to election administration.

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

**SECTION 1. AMENDMENT.** Section 4-22-21 of the North Dakota Century Code is amended and reenacted as follows:

**4-22-21. Regular election of district - When held - Regulations governing.**

The regular election of soil conservation districts must be held at the same time, and at the same place, as the general election is held. All qualified electors in the district may vote in any regular election of the district. Any land occupier living in the district desiring to be a candidate for the office of supervisor at a district election and who has failed to file a nominating petition may furnish stickers to be attached to the ballot and the ballot must have blank spaces below the names of candidates nominated by petition for writing in other names campaign and be elected as a write-in candidate for the office.

**SECTION 2. AMENDMENT.** Section 15.1-09-13 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-13. Election precincts - Polling places - Election officials.**

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible.
2. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more polling places for the election. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain the polling place for a precinct until it is changed by subsequent action of the board.
3. ~~The~~For school board elections not held in conjunction with county elections, the board shall appoint two election judges and two election clerks for each precinct. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.
4. For school board elections held in conjunction with county elections, the county election boards shall administer the election in the same manner as the county or state election.

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

**16.1-01-01. Secretary of state to supervise election procedures - County administrator of elections.**

1. The secretary of state must be, ex officio, supervisor of elections and may employ additional personnel to administer this title. The secretary of state shall supervise the conduct of elections and in that supervisory capacity has, in addition to other powers conferred by law, the power to examine upon the secretary of state's request or the request of any election official, any election ballot or other material, electronic voting system or counting machine authorized by chapter 16.1-06, or device used in connection with any election, for the purpose of determining sufficient compliance with the law and established criteria and standards adopted by the secretary of state according to section 16.1-06-26. The secretary of state, upon determining that any ballot or other material, electronic voting system or counting machine, or device is not in sufficient compliance with the law or established criteria and standards, shall direct the proper changes to be made, and in the case of electronic voting systems and counting machines, may decertify the electronic voting systems and counting machines according to the rules adopted under section 16.1-06-26.
2. In addition to other duties provided elsewhere by law, the secretary of state shall:
  - a. Develop and implement uniform training programs for all election officials in the state.
  - b. Prepare information for voters on voting procedures.
  - c. Publish and distribute an election calendar, a manual on election procedures, and a map of all legislative districts.
  - d. Convene a state election conference of county auditors at the beginning of each election year and whenever deemed necessary by the secretary of state to discuss uniform implementation of state election policies.
  - e. Prescribe the form of all ballots and the form and wording of ballots on state referendum questions, issues, and constitutional amendments.
  - f. Investigate or cause to be investigated the nonperformance of duties or violations of election laws by election officers.
  - g. Require such reports from county auditors on election matters as deemed necessary.
  - h. Certify results of statewide elections.
  - i. Prepare and publish reports whenever deemed necessary on the conduct and costs of voting in the state, including a tabulation of election returns and such other information and statistics as deemed appropriate.
  - j. Establish standards for voting precincts and polling locations, numbering precincts, precinct maps, maintaining and updating pollbooks, and forms and supplies, including but not limited to, ballots, pollbooks, and reports.
  - k. Prescribe the order in which each political subdivision will appear on an election ballot.
  - l. Develop and conduct a test election for the state's voting system prior to each statewide election utilizing the votes cast within each county according to the logic and accuracy testing required in section 16.1-06-15.
3. In carrying out the secretary of state's duties and to assure uniform voting opportunities throughout the state, and for the purpose of implementing the provisions of this title and any other requirement imposed upon the state by the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15301 et seq.] not otherwise addressed in this Act, the secretary of state may from time to time issue rules the secretary of state deems necessary,

which must be consistent with the provisions of this title or the Help America Vote Act of 2002 and be adopted and published in accordance with chapter 28-32, but which need not comply with section 28-32-07.

4. In each county there must be a county administrator of elections who must be the county auditor. The county auditor is responsible to the secretary of state for the proper administration within the auditor's county of state laws, rules, and regulations concerning election procedures.
5. In addition to other statutory duties, the county auditor shall:
  - a. Procure and distribute supplies required for voting in the county.
  - b. Prepare and disseminate voter information as prescribed by the secretary of state.
  - c. Fully comply with the test election required of this section.
  - d. Carry out uniform training programs for all county and precinct election officials as prescribed by the secretary of state.
  - d.e. Receive and handle complaints referred to the county auditor by any voter or precinct official involving circulation of petitions, challenges to voters, actions of election officials, or irregularities of any kind in voting. The county auditor shall refer complaints to the secretary of state or the proper prosecuting authority, as the county auditor deems appropriate.

Upon completion of the duties required by this subsection, the county auditor shall certify to the secretary of state, in the manner prescribed by the secretary of state, that the duties have been completed.

**SECTION 4. AMENDMENT.** Section 16.1-02-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.**

1. Not later than the primary election in 2008, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in the two previous election years and any reasonably reliable updates made by the county auditor since the general elections in the two previous election years. Any individual contained in the initial central voter file who voted at either of the general elections in the two previous election years must be designated as "active" in the initial central voter file. Any individual contained in the initial central voter file who did not vote at either of the general elections in the two previous election years must be designated as "inactive" in the initial central voter file.
3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be created ~~from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years. If it is not possible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier must be randomly generated and assigned to the individual.~~

4. ~~The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 16.1-02-11 and subsection 3 of section 16.1-01-01.~~
5. When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years, the secretary of state and county auditors shall attempt to correct address errors and misspellings of names.

**SECTION 5. AMENDMENT.** Section 16.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-04. Precinct boundaries changed - Change to the central voter file.**

When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the central voter file to accurately reflect those changes. The county auditor shall provide to the secretary of state all materials requested for existing precincts or to assist in making or verifying the required changes.

**SECTION 6. 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 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~~active".

**SECTION 7. AMENDMENT.** Section 16.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-10. Posting voting history - Failure to vote - Individuals designated inactive.**

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

**SECTION 8. AMENDMENT.** Section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-12. Information contained and maintained in the central voter file.**

The central voter file must contain the following information for each individual included in the file:

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. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
6. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.
7. Beginning in 2008, four years of an individual's voting history, if applicable.
8. Date of birth.
9. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.
10. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the central voter file.

**SECTION 9. 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, voter's birth date and identification number of any state-issued identification regardless of the state in which the identification was issued, which are exempt records, the precinct pollbooks are open records under section 44-04-18. 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 10. 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, 4, 5, 6, 7, and 8~~10~~ 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.

**SECTION 11. AMENDMENT.** Section 16.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-11. State committee - Meetings - Organization - Vacancies.**

The state committee shall meet on or before July first of each odd-numbered year. The committee shall organize by selecting a chairman, vice chairman, secretary, and treasurer and by adopting rules and modes of procedure. The party's bylaws must be filed with the secretary of state. The officers elected need not be members of the committee, but they shall become voting members of the committee after their election. Within thirty days following the state committee's organization, the newly elected chairman shall notify the secretary of state of the names of the party officers selected ~~and the names and addresses of the party's district chairmen~~. These officers, with any other persons provided for by the party's bylaws and as the state committee designates, constitute the executive committee of the state committee. If the office of chairman becomes vacant, the vice chairman holds the office until the next regular election for the office or until a new chairman is selected by the state committee for the balance of the term, whichever occurs first. A vacancy in an office of the state committee, other than chairman and a party district chairman, must be filled upon a majority vote of the state committee. The chairman of the state committee may temporarily fill any vacancy existing on the state committee until the state committee convenes to fill the vacancy. The secretary of state must be notified of any changes in membership of the state's committee officers ~~or the party's district chairmen~~.

**SECTION 12. AMENDMENT.** Subsection 1 of section 16.1-06-15 of the North Dakota Century Code is amended and reenacted as follows:

1. All electronic voting systems used in this state must be tested according to guidelines established by the secretary of state and as follows 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.

**SECTION 13. AMENDMENT.** Section 16.1-07-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-08. Delivering ballots - Envelopes accompanying - ~~Statement~~Affidavit on envelope - Challenging electors voting by absentee ballot - Inability of elector to sign name.**

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or

the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. The auditor or business manager of the school district, as the case may be, may not provide an absent voter's ballot to a person acting as an agent who cannot provide a signed, written authorization from an applicant. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.

2. If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and a secrecy envelope and a return envelope must be enclosed with the ballot or ballots. The front of the return envelope must bear the official title and post-office address of the officer supplying the voter with the ballot and upon the other side a printed voter's affidavit in substantially the following form:

Precinct \_\_\_\_\_

Name \_\_\_\_\_

Residential Address \_\_\_\_\_

City \_\_\_\_\_ ND Zip Code \_\_\_\_\_

Under penalty of possible criminal prosecution for making a false statement, I swear that I reside at the residential address provided above, that I have resided in my precinct for at least thirty days next preceding the election, and this is the only ballot I will cast in this election.

Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_

If the absent voter is unable to sign the voter's name, the voter shall mark (X) or use the applicant's signature stamp on the ~~statement~~affidavit in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark".

3. Each individual requesting an absent voter's ballot under this chapter must be provided a set of instructions, prescribed by the secretary of state, sufficient to describe the process of voting by absent voter's ballot. The voting instructions must contain a statement informing the individual that the individual is entitled to complete the absent voter's ballot in secrecy.
4. Each individual requesting an absent voter's ballot under this chapter who cannot read the English language or who because of blindness or other disability is unable to mark the voter's ballot, upon request, may receive the assistance of any individual of the voter's choice, other than the voter's employer, an officer or agent of the voter's union, a candidate running in that election, or a relative of a candidate as described in subsection 2 of section 16.1-05-02, in marking the voter's ballot.

**SECTION 14. 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 voter's 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~~ prior to the meeting of the canvassing board. 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. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied with the ballots timely submitted for 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 determine that the elector was qualified to vote in that precinct, 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 15. AMENDMENT.** Section 16.1-07-10 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-10. Care and custody of ballot.**

Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the ~~written~~ application of the absent voter and file the ballot with other absentee ballots from the same precinct. Before delivering the absentee ballots to the precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This package contains an absent voter's ballot and must be opened only ~~on election day at the polls while the polls are open~~ according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter.

**SECTION 16. AMENDMENT.** Section 16.1-07-11 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-11. Submitting ballot to inspector of elections.**

If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or business manager of the school district, as the case may be, prior to that person's delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, must be enclosed in such package and delivered therewith to the inspector of the precinct. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, then the officer ~~shall immediately mail the same postage prepaid to the election inspector or the officer or the officer's deputy~~ may designee shall personally deliver it to the inspector prior to the close of the polls on election day. Any absent voter's ballot sent to the wrong precinct by the official whose duty it is to forward such ballots to the precincts, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the precinct, must be returned to the official by the election inspector, and must be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be ~~forwarded to the precinct~~ counted on election day.



**SECTION 17. AMENDMENT.** Section 16.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.**

At any time beginning on the day before election day and the closing of the polls on election day, the election clerks and board members of the relevant precinct first shall ~~open the outer envelope and~~ compare the signature on the application for an absent voter's ballot with the signature on the ~~statement~~voter's affidavit provided for in section 16.1-07-08 ~~to ensure the signatures correspond.~~ If the ~~judges find that the statement is sufficient and that the signatures correspond, and that the applicant is~~ then a duly qualified elector of the precinct and has not voted at the election, they shall open the absent voter's envelope in a manner as not to destroy the ~~statement~~affidavit thereon. They shall take out the ~~secrecy envelope with the~~ ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, ~~and after initialing the same as other ballots are initialed, they shall deposit the ballot in the proper ballot box and show~~indicate in the pollbook of the election that the elector has voted. ~~The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for tabulation.~~ The votes from these cast ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day. If the ~~statement~~affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the application and affidavit do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting the ballot.

**SECTION 18. AMENDMENT.** Section 16.1-07-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-12.1. Absentee ballot precinct - Election board appointment - Ballot counting.**

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may create a special precinct, known as an absentee ballot precinct, for the purpose of counting all absentee ballots cast in an election in that county. The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.
2. If the board of county commissioners chooses to establish an absentee ballot precinct according to this section, the following provisions apply:
  - a. The county auditor shall appoint the absentee ballot counting board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set forth in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
  - b. The county auditor shall have the absentee ballots delivered to the inspector of the absentee ballot counting board with the election supplies, or if received later, then prior to the closing of the polls.
  - c. The absentee ballot counting board shall occupy a location designated by the county auditor which must be open to any individual for the purpose of observing the counting process.

- d. ~~The absentee ballots must be opened and handled as required in section 16.1-07-12. The absentee ballot counting board may commence counting the absentee ballots at the same time as any precinct within the county, city, or legislative district opens its polls. As soon as all the polls in the county, city, or legislative district close and the count is completed, the inspector shall announce publicly the results. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.~~

**SECTION 19. AMENDMENT.** Subsection 1 of section 16.1-09-03 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~An~~The name of the business or employer and an identification of the principal source of income, defined in the state income tax return as "principal occupation", of both the candidate or appointee and that person's spouse.

**SECTION 20. AMENDMENT.** Section 16.1-10-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-03. Political badge, button, or insignia at elections.**

~~On the day of an election, no person~~No individual may buy, sell, give, or provide any political badge, button, or any insignia ~~to be worn at or about the polls on that day~~within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing the polling place while it is open for voting. No such political badge, button, or insignia may be worn ~~at or about the polls on any election day~~within that same area while a polling place is open for voting.

**SECTION 21. AMENDMENT.** Section 16.1-11-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-05. Secretary of state to give notice to county auditor of officers to be nominated.**

Between the first day of March and the first day of April in each primary election year, the secretary of state shall ~~cause to be delivered to~~notify the county auditor of each county ~~a notice specifying~~regarding all the officers to be nominated in that county at the next primary election. This same information shall be made available to the public by the secretary of state at that time. The publication of the sample ballot by the county auditor constitutes the notice of the secretary of state in regard to the officers and candidates to be voted upon at the primary election.

**SECTION 22. AMENDMENT.** Section 16.1-11-20 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-20. Certified list of nominees transmitted to county auditor by secretary of state.**

At least fifty-five days before any primary election, the secretary of state shall electronically transmit to each county auditor a certified list containing the names and post-office addresses of each person for whom nomination papers have been filed in the secretary of state's office and who are entitled to be voted for at the primary election. A designation of the office for which each is a candidate, and if applicable, the party or principle represented by each must be included.

**SECTION 23. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one political party.**

At the primary election there may be only one ballot for all parties or principles. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot".
2. Each political party or principle having candidates at the primary election must have a separate column on the ballot.
3. At the head of each column must be printed the name of the political party or principle which it represents.
4. In each column below the party or principle title must be printed: "You may vote for the candidates of only one political party at the primary election. If you cast votes in more than one party column and vote for candidates of more than one political party, your political party ballot will be rejected."
5. Immediately below the warning against voting for candidates of more than one political party must be printed: "To vote for the candidate of your choice, you must darken the oval opposite the name of the candidate. To vote for a person whose name is not printed on the ballot, write that person's name in the blank space provided for that purpose and darken the oval opposite the space provided."
6. The offices specified in section 16.1-11-26 must be arranged in each column with the name of each office in the center of each political party column at the head of the names of all the aspirants for the office.
7. Immediately under the name of each office must be printed: "Vote for no more than \_\_\_\_\_ name (or names)."
8. Immediately preceding and on the same line as the name of each aspirant must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the left-hand column, and the political party or principle casting the next largest vote must have the next column, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one political party the voter's political party ballot will be rejected.

**SECTION 24. 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.**

1. The board of county commissioners of a county may conduct 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 one or more polling places 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 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.
2. The board of county commissioners of a county may conduct an election partially by mail ballot. If the board of county commissioners chooses to conduct an election partially by mail ballot, the commission may use mail ballots for any precinct in which fewer than four hundred

votes were cast for the office of governor at the last general election at which that office was on the ballot.

**SECTION 25. 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, voter's affidavit, 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 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)

according to section 16.1-07-08.

**SECTION 26. 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~~ Mail ballot precinct.**

The county auditor shall appoint a ~~special~~ mail ballot precinct election board for the purpose of counting mail ballots in the same manner as prescribed in section 16.1-07-12.1. The board may begin scanning the ballots ~~after the polls open on the day of the election but may not total the results until the closing time of the polls~~ at any time beginning on the day before election day and the closing of the polls on election day. Results from the mail ballot precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12 as applicable. 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.

**SECTION 27. AMENDMENT.** Subsection 1 of section 16.1-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

1. The ballot is returned in the return identification envelope with a postmark or official date stamp of at least the day before the election and received prior to the meeting of the canvassing board;

**SECTION 28. AMENDMENT.** Subsection 1 of section 16.1-12-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Certificates of nomination for nominees for offices to be filled by the qualified electors of the entire state must be filed with the secretary of state. Not less than fifty-five days before any general or special election to fill any statewide office, the secretary of state shall certify electronically transmit a certified list to each county auditor the names and addresses of the persons nominated for statewide office according to this chapter as shown on the certificates of nomination filed in the secretary of state's office.

**SECTION 29. AMENDMENT.** Section 16.1-13-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-03. Secretary of state to give notice to county auditor of officers to be elected.**

Not later than seventy days prior to the date of election, the secretary of state shall ~~direct and cause to be delivered~~ electronically transmit to the county auditor of each county a notice specifying each officer to be chosen at the next general election. This same information shall be made available to the public by the secretary of state at that time. The publication of the sample ballot by the county auditor constitutes the notice of the secretary of state in regard to the offices and candidates to be voted upon at the general election.

**SECTION 30. AMENDMENT.** Section 16.1-15-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-04. Three canvass reports prepared by election board - One for county auditor and one for each political party.**

The election board shall generate at least three canvass reports from the electronic voting system. The ballots may not be sealed, nor may the three canvass reports be signed, by the election board or poll clerk until the counts in the poll clerks' books and in the canvass reports all show the same totals for ballots cast. A signed canvass report is to be given to each judge so that the political parties have a record of the votes cast.

In the case of the absentee ballot precinct as authorized in section 16.1-07-12.1, early voting precincts as authorized in section 16.1-07-15, and mail ballot precinct as authorized in section 16.1-11.1-06, if the work of the election board is completed prior to close of the polls on election day, the election board shall create and sign a statement consisting of a reconciliation of the number of voters recorded in the pollbook and the number of ballots processed through the tabulators. The voting system shall then be secured in a manner prescribed by the county auditor that will protect the system and ballots from tampering. Prior to generating the canvass reports from one of these three types of precincts, an election judge representing each political party, or two election judges in the case of an election that does not include a political party contest, shall verify that the system and ballots remain secure and the statement created by the election board is still accurate.

**SECTION 31. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

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

After generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly

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

**SECTION 32. AMENDMENT.** Section 16.1-15-21 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-21. Primary election statement prepared by county canvassing board - Contents.**

The county canvassing board, upon canvassing the returns of a primary election, shall prepare a ~~statement~~ abstract signed by the members of the board and filed in the office of the county auditor. The ~~statement~~ abstract must contain all of the following:

1. The names of all candidates voted for at the primary election with the number of votes received by each and for what office. The ~~statement~~ abstract must be made separately for each political party or principle.
2. The names of the persons or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one person is required to be elected to a given office at the next ensuing general election, there must be included in the ~~statement~~ abstract the names of so many of the candidates of the party receiving the next highest number of votes for that office as there are persons to be elected to the office at said ensuing general election. The ~~statement~~ abstract must be made separately for each political party.
3. The total number of ballots cast at the primary election.

A separate ~~statement~~ abstract of the votes cast must be transmitted to the secretary of state according to reporting instructions specified by the secretary of state.

**SECTION 33. 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 shall provide to the secretary of state ~~at the~~ certified abstract ~~detailed in section 16.1-15-21,~~ 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 must be in the possession of the secretary of state before four p.m. on the ~~tenth~~ eighth day after the primary election.

**SECTION 34. 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~~eight days and before four p.m. on the ~~tenth~~eight day following any general election, the county auditor of each county shall 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.

**SECTION 35. AMENDMENT.** Section 16.1-15-26 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-26. Memorandum~~Notification~~ of date of receiving returns in secretary of state's office.**

~~A memorandum~~An electronic notification of the date of reception of all returns of votes in the secretary of state's office must be made to each county auditor.

**SECTION 36. AMENDMENT.** Section 16.1-15-27 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-27. Abstract of votes - Secretary of state to record - Failure of county auditor to send - Messenger dispatched.**

Upon receipt of the certified abstract of votes from the county auditors as provided in section 16.1-15-25, the secretary of state shall record the result of the election by counties and shall file and carefully preserve the certified ~~statements~~abstracts received from the county auditors. If no certified ~~statement~~abstract is received by the secretary of state from the county auditor of any county prior to the time specified for the meeting of the state canvassing board, the secretary of state shall dispatch a special messenger to obtain the ~~statement~~abstract at the expense of the county. Upon demand, the county auditor shall make and deliver the required ~~statement~~abstract to the special messenger who shall deliver it to the secretary of state to be recorded and filed as provided in this section. The messenger shall receive the same mileage expense as other state officers and employees. The state treasurer shall present a bill for the amount audited against the county failing to send returns as provided in this section, and the bill must be audited by the board of county commissioners of the county and paid by the county treasurer to the state treasurer.

**SECTION 37. AMENDMENT.** Section 16.1-15-33 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-33. State canvassing board - Membership - Oath - Quorum - Compensation.**

The clerk of the supreme court, the secretary of state, the state treasurer, and the chairman, or chairman's designee, of the state committee of the two political parties which cast the highest vote for governor at the last general election at which a governor was elected shall constitute the state canvassing board. The duties of the state canvassing board ~~are ministerial, mandatory, and nondiscretionary~~ and consist of ~~canvassing the result~~examining the returns of votes cast at the elections received from the various counties, verifying the computed final results in any reasonable manner adopted by the board and which may incorporate the use of any electronic technology or system approved by the secretary of state, and certifying the results on the basis of the canvass. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of the board, shall attend without delay and act as a member of the board. Members of the board may be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. The compensation must be paid from the appropriation to the secretary of state.

**SECTION 38. AMENDMENT.** Section 16.1-15-37 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-37. Examination of abstracts by state canvassing board - Messenger dispatched to county when error discovered.**

After the state canvassing board is formed, it shall examine the certified abstracts of the county canvassing boards and verify the computed final results as provided in section 16.1-15-33 and if it appears that:

1. Any material mistake has been made in the computation of votes cast for any person; or
2. The county canvassing board in any county has failed to canvass the votes or any part thereof cast in any precinct in its county,

the board may dispatch a messenger to the county auditor of the county, at the expense of the county, with the board's requirement in writing to the county auditor to certify the fact concerning the mistake or the reason why the votes were not canvassed. The county auditor, to whom the requirement is delivered, shall make a true and full answer thereto under the county auditor's hand and official seal and shall deliver the answer with all convenient dispatch to the secretary of state.

**SECTION 39. AMENDMENT.** Section 16.1-15-39 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-39. Disagreements in canvassing returns by canvassing board - Disregarding technicalities, misspelled words, and abbreviations.**

In canvassing the returns and verifying the computed final results received from the various counties, a majority of the members of the state canvassing board shall decide all matters of disagreement. The board shall disregard all technicalities, misspelling, the use of initial letters, and the abbreviations of the names of candidates if it can be ascertained from the returns for whom the votes were intended.

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

**16.1-15-40. StatementAbstract prepared by state canvassing board for primary election - Contents - Signing - Candidate notified of nomination.**

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

**SECTION 41. AMENDMENT.** Section 16.1-15-41 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-41. Statements of general or special election prepared by state canvassing board - Contents.**

Upon receiving the certified abstracts on file with the secretary of state, the state canvassing board shall proceed publicly to examine and make statements of the whole number of votes cast at any general or special election for all state or district offices. The statements must show the names of the



~~persons~~individuals for whom the votes were cast for the offices and the whole number of votes for each, distinguishing the several districts and counties in which they were cast.

**SECTION 42. AMENDMENT.** Section 16.1-15-44 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-44. Secretary of state to record statement of general or special election, prepare certificates of election, publish statementabstract.**

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

**SECTION 43. AMENDMENT.** Section 16.1-15-48 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-48. Canvassing returns of constitutional amendment or other proposition - Certified statementabstract of result - Contents.**

For the purpose of canvassing and ascertaining the result of the votes cast at any election upon any proposed amendment to the constitution, or any other proposition submitted to a vote of the people, the state canvassing board shall proceed to examine the ~~statements~~abstracts received by the secretary of state from the county auditors to ascertain and determine the result. The board shall certify a statement of the whole number of votes cast for and the whole number of votes cast against an amendment or proposition, and it shall determine whether the amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and a certificate of that determination must be prepared and subscribed on the statement.

**SECTION 44. AMENDMENT.** Section 40-38-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-38-01. Public library and reading room - Establishment - Election.**

The governing body of any city or county upon petition of not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election or upon a majority vote of the qualified electors thereof voting on the question shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library, or with one or more cities or counties, or by participation in an approved state plan for rendering public library service under the Library Services and Construction Act [20 U.S.C. 351-358], and acts amendatory thereof. Such question shall be submitted to the qualified electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of qualified electors of the city or county that voted at the last general election, filed with the governing body not less than ~~sixty~~ninety days before the next regular election. Library service may be discontinued within any city or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

**SECTION 45. AMENDMENT.** Section 61-04.1-30 of the North Dakota Century Code is amended and reenacted as follows:

**61-04.1-30. Abolishment of weather modification authority by election.**

When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for governor in the last preceding gubernatorial election, requesting an election upon the abolishment of a weather modification authority as created in sections 61-04.1-27 and 61-04.1-29 is presented to the board of county commissioners, not later than ~~forty-five~~ sixty days prior to the next countywide election, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by a majority of the votes cast on the question, the board of county commissioners shall abolish the weather modification authority as of December thirty-first following the election. All unexpended funds remaining in the name of the weather modification authority, after all proper bills and expenses have been paid, shall be deposited in the general fund of the county.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2254.

Senate Vote:    Yeas 47            Nays 0            Absent 0

House Vote:    Yeas 90            Nays 0            Absent 4

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State