

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1253**

Introduced by

Representatives Louser, Christensen, Kasper, B. Koppelman, Rohr, D. Ruby, Schauer,
Toman

Senators Hogue, Meyer, K. Roers, Vedaa

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24, a
2 new section to chapter 16.1-01, sections 16.1-07-13.1 and 16.1-12-10, and a new section to
3 chapter 54-09 of the North Dakota Century Code, relating to election administration; to amend
4 and reenact section 15.1-09-15, subsection 1 of section 16.1-01-01, section 16.1-01-03,
5 subsection 5 of section 16.1-01-04.1, sections 16.1-01-05.1, 16.1-01-06, 16.1-01-07, and
6 16.1-01-08, subsection 5 of section 16.1-01-09, subsection 7 of section 16.1-01-09.1, sections
7 16.1-01-12, 16.1-01-16, and 16.1-01-17, the new section to chapter 16.1-01 of the North Dakota
8 Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh
9 legislative assembly, sections 16.1-02-01, 16.1-02-02, 16.1-02-05, 16.1-02-06, 16.1-02-07,
10 16.1-02-10, 16.1-02-11, and 16.1-02-13, subsection 2 of section 16.1-05-01, sections
11 16.1-06-02, 16.1-06-04, 16.1-06-11, 16.1-06-12, 16.1-06-14, 16.1-06-17, 16.1-06-18,
12 16.1-06-19, 16.1-06-25, and 16.1-06-26, subsection 1 of section 16.1-07-05, sections
13 16.1-07-06, 16.1-07-07, 16.1-07-08, 16.1-07-09, and 16.1-07-10, subsection 1 of
14 section 16.1-07-12.1, sections 16.1-07-15, 16.1-08.1-01, 16.1-08.1-03.1, 16.1-10-07,
15 16.1-11-05.1, 16.1-11-06, 16.1-11-10, 16.1-11-11, 16.1-11-12, 16.1-11-16, 16.1-11-18,
16 16.1-11-19, 16.1-11-20, 16.1-11-21, 16.1-11-22, 16.1-11-31, 16.1-11-32, 16.1-11-33, 16.1-11-35,
17 16.1-11-36, 16.1-11-37, 16.1-11-39, 16.1-11.1-02, 16.1-11.1-03, 16.1-11.1-08, 16.1-12-01,
18 16.1-12-02.1, 16.1-12-03, 16.1-12-06, 16.1-12-07, 16.1-12-09, 16.1-13-05, 16.1-13-09,
19 16.1-13-14, 16.1-13-17, 16.1-13-18, 16.1-13-19, 16.1-13-23, 16.1-13-25, 16.1-13-27,
20 16.1-13-28, 16.1-13-29, 16.1-13-30, and 16.1-13-31, subsection 1 of section 16.1-15-01, and
21 sections 16.1-15-01.1, 16.1-15-02, 16.1-15-08, 16.1-15-09, 16.1-15-10, 16.1-15-13, 16.1-15-15,
22 16.1-15-17, 16.1-15-19, 16.1-15-20, 16.1-15-21, 16.1-15-25, 16.1-15-30, 16.1-15-37,
23 16.1-15-42, 16.1-15-43, 16.1-15-45, 16.1-15-47, 16.1-16-01, 16.1-16-02, 16.1-16-04,
24 16.1-16-05, and 16.1-16-07 of the North Dakota Century Code, relating to election

1 administration; to repeal sections 16.1-06-10.1, 16.1-07-11, 16.1-07-13, and 16.1-13-24 of the
2 North Dakota Century Code, relating to election administration and the removal of obsolete
3 language; and to provide a penalty.

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

5 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
6 Century Code is created and enacted as follows:

7 The secretary of state for employees with access to personally identifying
8 information of residents or businesses of the state or with access to elections
9 systems that are critical infrastructure under section 44-04-24.

10 **SECTION 2. AMENDMENT.** Section 15.1-09-15 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **15.1-09-15. School district election - Declaration of winner.**

13 On the ~~sixth~~thirteenth day after the election, the school board shall meet to canvass all
14 election returns and shall declare the result of an election and, in the case of a tie, within three
15 days from the determination of a winner. However, if the election is held under an agreement
16 with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be
17 canvassed and the winners declared as set out in the agreement. The individual receiving the
18 highest number of votes for an office must be declared elected. The board shall record the
19 result of the election.

20 **SECTION 3.** A new section to chapter 16.1-01 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Definitions.**

23 For purposes of this title, unless the context otherwise requires, "candidate" means:

- 24 1. An individual holding public office;
- 25 2. An individual who publicly has declared that individual's candidacy for nomination for
26 election or election to public office or has filed or accepted a nomination for public
27 office;
- 28 3. An individual who has formed a campaign or other committee for that individual's
29 candidacy for public office;

1 4. An individual who has circulated a nominating petition to have that individual's name
2 placed on the ballot; and

3 5. An individual who, in any manner, has solicited or received a contribution for that
4 individual's candidacy for public office, whether before or after the election for that
5 office.

6 **SECTION 4. AMENDMENT.** Subsection 1 of section 16.1-01-01 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 1. The secretary of state ~~must be~~, ex officio, supervisor of elections and may employ
9 additional personnel to administer this title. The secretary of state shall supervise the
10 conduct of elections and in that supervisory capacity has, in addition to other powers
11 conferred by law, the power to examine upon the secretary of state's request or the
12 request of any election official, any election ballot or other material, ~~electronic voting~~
13 ~~system or counting machine~~ authorized by chapter 16.1-06, or device used in
14 connection with any election, for the purpose of determining sufficient compliance with
15 the law and established criteria and standards adopted by the secretary of state
16 according to section 16.1-06-26. The secretary of state, upon determining ~~that any~~
17 ballot or other material, ~~electronic voting system or counting machine~~, or device is not
18 in sufficient compliance with the law or established criteria and standards, shall direct
19 the proper changes to be made, and in the case of ~~electronic voting systems and~~
20 ~~counting machines~~, may decertify the ~~electronic voting systems and counting~~
21 ~~machines~~ according to the rules adopted under section 16.1-06-26.

22 **SECTION 5. AMENDMENT.** Section 16.1-01-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **16.1-01-03. Opening and closing of the polls.**

25 The polls at all primary, general, and special elections must be opened at nine a.m. or
26 earlier, but not earlier than seven a.m., as designated for any precinct by resolution of the
27 governing body of the city or county in which the precinct is located. The polls must remain
28 open continuously until seven p.m. or ~~such a~~ later hour, not later than nine p.m., as may be
29 designated for a precinct by resolution of the governing body of the city or county in which the
30 precinct is located. All electors standing in line to vote at the time the polls are set to close must
31 be allowed to vote, but electors arriving after closing time may not be allowed to vote. A voter

1 may take up to thirty minutes to mark and cast the ballot after receiving the ballot from the
2 election judge. After the polls close, the election board shall generate the report of the vote
3 totals not later than thirty minutes after the last elector in line at the closing time received a
4 ballot. An elector remaining in the polling place after the thirty minutes have expired who has
5 not completed marking the ballot must be offered the choice of casting the ballot as marked or
6 continuing to mark the ballot. If the elector chooses to continue marking the ballot, the ballot
7 selections must be excluded from the report of the vote totals generated by the election board
8 but must be forwarded by the election board to the canvassing board and added to the final
9 tally. The secretary of state shall develop uniform, mandatory procedures for election boards to
10 ensure the secrecy of each elector's ballot. The election officers present are responsible for
11 determining who arrived in time to vote, and the election officers shall establish appropriate
12 procedures for making that determination. All determinations required to be made pursuant to
13 this section relating to polling hours must be made, and the county auditor notified of ~~them~~the
14 determinations, no later than thirty days ~~prior to~~before an election.

15 **SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 5. If an individual is not able to show a valid form of identification but asserts
18 qualifications as an elector in the precinct in which the individual desires to vote, the
19 individual may mark a ballot that must be securely set aside in a sealed envelope
20 designed by the secretary of state. After the ballot is set aside, the individual may
21 show a valid form of identification to either a polling place election board member if the
22 individual returns to the polling place before the polls close, or to an employee of the
23 office of the election official responsible for the administration of the election before the
24 meeting of the canvassing board occurring on the ~~sixth~~thirteenth day after the election.
25 Each ballot set aside under this subsection must be presented to the members of the
26 canvassing board for proper inclusion or exclusion from the tally.

27 **SECTION 7. AMENDMENT.** Section 16.1-01-05.1 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **16.1-01-05.1. Voter lists - Addition or transfer of names.**

30 Through the use of the central voter file provided for in chapter 16.1-02, the secretary of
31 state shall establish a procedure by which a county auditor may transfer a ~~person's~~an

1 individual's name from the voter list of one precinct to the voter list of another precinct in the
2 state if ~~that person~~the individual establishes a new residence, and by which a ~~person~~an
3 individual who establishes residence in the state may have ~~that person's~~the individual's name
4 placed on the voter list in the appropriate precinct. The procedure provided for in this section
5 may not be used to require the registration of electors.

6 **SECTION 8. AMENDMENT.** Section 16.1-01-06 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **16.1-01-06. Highest number of votes elects.**

9 Unless otherwise expressly provided by the laws of this state, in all elections for the choice
10 of any officer, the ~~person~~individual receiving the highest number of votes for any office must
11 be deemed ~~to have been~~ elected to that office.

12 **SECTION 9. AMENDMENT.** Section 16.1-01-07 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-01-07. Constitutional amendments and other questions to be advertised -**
15 **Notification by secretary of state - Manner of publishing.**

16 ~~Whenever~~If a proposed constitutional amendment or other question is to be submitted to
17 the people of the state for popular vote, the secretary of state shall, ~~not less than fifty-five days~~
18 ~~before the election,~~ certify the amendment or other question to each county auditor not less
19 than fifty-five days before the election, and each auditor shall cause notice ~~thereof~~ of the
20 question to be included in the notice required by section 16.1-13-05. Questions to be submitted
21 to the people of a particular county must be advertised in the same manner.

22 ~~The~~At the same time the secretary of state certifies notice to the county auditors of the
23 submission of a constitutional amendment or other question, the secretary of state shall, ~~at the~~
24 ~~same time the secretary of state certifies notice to the county auditors of the submission of a~~
25 ~~constitutional amendment or other question,~~ certify the ballot form for such the questions. The
26 ballot form must conform to the provisions of section 16.1-06-09 and must be used by all county
27 auditors ~~in preparing to prepare~~ to prepare ballots for submission to the electorate of each county and ~~in~~
28 ~~the preparation of~~ to prepare sample ballots. Any requirements in this title that a sample ballot
29 ~~be published will be met by the~~ The publication of either the paper ballot or the ballot as it will
30 appear to ~~persons~~ individuals using an ~~electronica~~ electronic voting system device, depending
31 ~~upon~~ whichever corresponds to the method of voting used in the area involved, will satisfy any

1 ~~requirement in this title for a sample ballot to be published. Absentee voter ballots may not be~~
2 ~~considered in determining which method of voting is used in an area. If both paper ballots and~~
3 ~~electronic voting system ballots are used in an area, both forms must be published as sample~~
4 ~~ballots to meet publication and notice requirements. For two consecutive weeks before the~~
5 ~~sample ballot is published, an analysis of any constitutional amendment, initiated measure, or~~
6 ~~referred measure, written by the secretary of state after consultation with the attorney general,~~
7 ~~must be published in columns to enable the electors to become familiar with the effect of the~~
8 ~~proposed constitutional amendment or initiated or referred measure.~~

9 **SECTION 10. AMENDMENT.** Section 16.1-01-08 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **16.1-01-08. Correcting errors on ballots - Requiring performance of duty - Correcting**
12 **or prosecuting wrongful performance.**

- 13 1. The secretary of state shall ~~thoroughly~~ investigate thoroughly, when the matter comes
14 to the secretary of state's attention, any of the following:
- 15 ~~4.~~ a. Any error or omission ~~which that~~ has occurred or is about to occur in the placing
16 of any name on an official election ballot; however a factual dispute regarding a
17 candidate's residency may be resolved only by a court order.
- 18 ~~2.~~ b. Any error ~~which that~~ has been or is about to be committed in printing the ballot.
- 19 ~~3.~~ c. Any wrongful act ~~which that~~ has been or is about to be done by any judge or
20 election clerk, county auditor, canvassing board, a canvassing board member, or
21 any other ~~person~~ individual charged with any duty concerning the election.
- 22 ~~4.~~ d. Any neglect of duty which has occurred or is about to occur.
- 23 2. If required, the secretary of state shall order the officer or ~~person~~ individual charged
24 with ~~such the~~ error, wrong, or neglect to correct the error, desist from the wrongful act,
25 or perform any required duty. The secretary of state may call upon any county auditor
26 for aid in ~~investigation and correction of~~ investigating and correcting the problem. The
27 secretary of state shall cause any ~~person~~ individual who violates the secretary of
28 state's order to be prosecuted; if the violation constitutes an offense pursuant to this
29 chapter. If the administrative remedies fail to correct the problem, or if the secretary of
30 state refuses to act, any ~~person~~ individual may petition the supreme court, or the

1 district court of the relevant county ~~where~~^{if} the election of a county officer is involved,
2 for an order compelling the correction of the error, wrong, neglect, or act.

3 **SECTION 11. AMENDMENT.** Subsection 5 of section 16.1-01-09 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 5. When signed petitions are delivered to the secretary of state, the chairperson of the
6 sponsoring committee shall submit to the secretary of state an affidavit stating that to
7 the best of that individual's knowledge, the petitions contain at least the required
8 number of signatures. The chairperson also shall submit a complete list of petition
9 circulators which must include each circulator's full name and residential address. The
10 residential address must be in this state and identify the circulator's street address,
11 city, and zip code. Upon submission of the petitions to the secretary of state, the
12 petitions are considered filed and may not be returned to the sponsoring committee for
13 the purpose of continuing the circulation process or resubmitting the petitions at a later
14 time. An elector's name may not be removed by the elector from a petition that has
15 been submitted to and received by the secretary of state.

16 **SECTION 12. AMENDMENT.** Subsection 7 of section 16.1-01-09.1 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 7. When recall petitions are delivered to the secretary of state or other filing officer with
19 whom a petition for nomination to the office in question is filed, the chairman of the
20 sponsoring committee shall submit to the secretary of state or other filing officer an
21 affidavit stating that to the best of that individual's knowledge, the petitions contain at
22 least the required number of signatures. The chairperson also shall submit a complete
23 list of petition circulators which must include each circulator's full name and residential
24 address. The residential address must be in this state and identify the circulator's
25 street address, city, and zip code. Upon submission of the petitions to the appropriate
26 filing officer, the petitions are considered filed and may not be returned to the chairman
27 of the sponsoring committee for the purpose of continuing the circulation process or
28 resubmitting the petitions at a later time. An elector's name may not be removed by
29 the elector from a recall petition that has been submitted to and received by the
30 appropriate filing officer.

1 **SECTION 13. AMENDMENT.** Section 16.1-01-12 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-01-12. Election offenses - Penalty.**

- 4 1. It is unlawful for an individual, measure committee as described in section
5 16.1-08.1-01, or other organization to:
- 6 a. Fraudulently alter another individual's ballot or substitute one ballot for another,
7 or to otherwise defraud a voter of that voter's vote.
 - 8 b. Obstruct a qualified elector on the way to a polling place.
 - 9 c. Vote more than once in any election.
 - 10 d. Knowingly vote in the wrong election precinct or district.
 - 11 e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
 - 12 f. Knowingly exclude a qualified elector from voting or knowingly allow an
13 unqualified ~~person~~individual to vote.
 - 14 g. Knowingly vote when not qualified to do so.
 - 15 h. Sign an initiative, referendum, recall, or any other election petition when not
16 qualified to do so.
 - 17 i. Circulate an initiative, referendum, recall, or any other election petition not in its
18 entirety or ~~circulate such a petition~~ when unqualified to do so.
 - 19 j. Pay or offer to pay any individual, measure committee, or other organization, or
20 receive payment or agree to receive payment, on a basis related to the number
21 of signatures obtained for circulating an initiative, referendum, or recall petition.
22 This subsection does not prohibit the payment of salary and expenses for
23 circulation of the petition on a basis not related to the number of signatures
24 obtained, as long as the circulators file ~~their~~the intent to remunerate ~~prior~~
25 ~~to~~before submitting the petitions and, in the case of initiative and referendum
26 petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to
27 the secretary of state upon submission of the petitions. The disclosure of
28 contributions received under this section does not affect the requirement to file a
29 pre-election report by individuals or organizations soliciting or accepting
30 contributions for the purpose of aiding or opposing the circulation or passage of a
31 statewide initiative or referendum petition or measure placed upon a statewide

- 1 ballot by action of the legislative assembly under chapter 16.1-08.1. Any
2 signature obtained in violation of this subdivision is void and may not be counted.
- 3 k. Willfully fail to perform any duty of an election officer after having accepted the
4 responsibility of being an election officer by taking the oath as prescribed in this
5 title.
- 6 l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
- 7 m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any
8 false return of an election, knowing the ~~same~~canvass or return to be false; or
9 willfully deface, destroy, or conceal any statement or certificate entrusted to the
10 individual's or organization's care.
- 11 n. Destroy ballots, ballot boxes, election lists, or other election supplies except as
12 provided by law, or negatively impact the confidentiality, integrity, or availability of
13 any system used for voting.
- 14 o. Sign a name other than that individual's own name to an initiative, referendum,
15 recall, or any other election petition.
- 16 2. a. A violation of subdivisions b, e, f, or h through l of subsection 1 is a class A
17 misdemeanor.
- 18 b. A violation of subdivisions a, c, d, g, or m of subsection 1 is a class C felony.
- 19 c. A violation of subdivision n of subsection 1 ~~occurring after an election but before~~
20 ~~the final canvass, or during an election,~~ is a class C felony, ~~and in other cases is~~
21 ~~a class A misdemeanor.~~
- 22 d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an
23 individual signs one or two names other than the individual's own name to a
24 petition and is a class C felony if an individual signs more than two names other
25 than the individual's own name to a petition.
- 26 e. An organization, as defined in section 12.1-03-04, that violates this section is
27 subject to the organizational fines in section 12.1-32-01.1. The court in which the
28 conviction is entered shall notify the secretary of state of the conviction and shall
29 order the secretary of state to revoke the certificate of authority of any convicted
30 organization or limited liability company. The organization may not reapply to the
31 secretary of state for authorization to do business under any name for one year

1 upon conviction of a class A misdemeanor and for five years upon conviction of a
2 class C felony under this section.

3 f. An individual who is a member of an organization may be convicted of a violation
4 as an accomplice under section 12.1-03-01.

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

9 **SECTION 14. AMENDMENT.** Section 16.1-01-16 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **16.1-01-16. Secretary of state to establish a uniform state-based administrative**
12 **complaint procedure.**

13 The secretary of state shall establish a uniform state-based administrative complaint
14 procedure to remedy grievances according to section 402 of the Help America Vote Act of 2002
15 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15512]. The complaint procedure must be uniform
16 and nondiscriminatory and address complaints of violations of any provision of title III of the
17 Help America Vote Act of 2002, including a violation that has occurred, is occurring, or is about
18 to occur. A complaint filed under the complaint procedure must be in writing, and notarized, and
19 be signed and sworn by the ~~person~~individual filing the complaint. The secretary of state is
20 ~~authorized to~~may consolidate complaints. At the request of a complainant, the secretary of state
21 shall establish a procedure for providing a review on the record. If the secretary of state
22 determines there is a violation of a provision of title III of the Help America Vote Act of 2002
23 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15481-15502], the secretary of state shall
24 determine and provide an appropriate remedy. If the secretary of state determines ~~that~~ a
25 violation of title III of the Help America Vote Act of 2002 has not occurred, the secretary of state
26 shall dismiss the complaint and publish the results of the review. The secretary of state shall
27 make a final determination with respect to a complaint within ninety days of the date the
28 complaint is filed with the secretary of state, unless the complainant consents to a longer period
29 of time for the secretary of state to make a determination. If the secretary of state fails to meet
30 the ninety-day deadline for determining a complaint, the complaint must be resolved within sixty
31 days under an alternative dispute resolution procedure.

1 **SECTION 15. AMENDMENT.** Section 16.1-01-17 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-01-17. Estimated fiscal impact of an initiated or referred measure.**

4 ~~At least ninety days before a statewide election at which~~As soon as practicable after the
5 secretary of state approves an initiated or referred measure ~~will be voted upon for the ballot~~, the
6 legislative council shall coordinate the determination of the estimated fiscal impact of the
7 initiated or referred measure. Upon notification from the secretary of state that signed petitions
8 have been submitted for placement of an initiated or referred measure on the ballot, the
9 legislative management shall hold hearings, receive public testimony, and gather information on
10 the estimated fiscal impact of the measure. Each agency, institution, or department shall provide
11 information requested in the format and time frame prescribed by the legislative council for
12 identifying the estimated fiscal impact of the measure. At least thirty days before the public vote
13 on the measure, the legislative council shall submit a statement of the estimated fiscal impact of
14 the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice
15 within the analysis required by section 16.1-01-07 specifying where copies of the statement of
16 the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete
17 fiscal year after the effective date of an initiated or referred measure approved by the voters, the
18 agencies, institutions, or departments that provided the estimates of the fiscal impact of the
19 measure to the legislative council under this section shall submit a report to the legislative
20 council on the actual fiscal impact for the first complete fiscal year resulting from provisions of
21 the initiated or referred measure and a comparison to the estimates provided to the legislative
22 council under this section, and the legislative council shall issue a report of the actual fiscal
23 impact of the initiated or referred measure.

24 **SECTION 16. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-
25 seventh legislative assembly, is amended and reenacted as follows:

26 **SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code
27 is created and enacted as follows:

28 **Use of nonpublic funds prohibited - Penalty.**

29 1. The state and political subdivisions may not solicit, accept, or use any grants
30 or donations from private persons for elections operations or administration
31 except:

- 1 a. The use of privately owned facilities for polling places;
- 2 b. Food for poll workers; and
- 3 c. Other nonmonetary donations that are not used to prepare, process, mark,
- 4 collect, or tabulate ballots or votes.
- 5 2. An individual who knowingly violates subsection 1 is guilty of a class A
- 6 misdemeanor.

7 **SECTION 17. AMENDMENT.** Section 16.1-02-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **16.1-02-01. Permanent central voter file.**

10 A permanent, centralized electronic database of voters, to be known as the central voter
11 file, is established with the offices of the secretary of state and county auditors linked together
12 by a centralized statewide system. The county auditor is chief custodian of the central voter file
13 records in each county. The secretary of state shall maintain the central voter file and provide
14 training and documentation that users who have been granted access to the system shall
15 follow. The central voter file must be accessible by the secretary of state and all county auditors
16 for purposes of preventing and determining voter fraud, making changes and updates, and
17 generating information, including pollbooks, reports, inquiries, forms, and voter lists.

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

20 **16.1-02-02. Costs of creating and maintaining a central voter file.**

21 ~~The creation of the central voter file and its maintenance through June 30, 2011, must be~~
22 ~~paid for with funds from the state's election fund, provided the election fund contains adequate~~
23 ~~funding to create and maintain the central voter file. The creation of the central voter file and its~~
24 ~~maintenance through June 30, 2011, may not be paid for from funds in the secretary of state's~~
25 ~~budget, the state's general fund, or from county funds. Beginning July 1, 2011, the~~The offices
26 required to perform the functions and duties of this chapter shall bear the costs incurred in
27 performing those duties, and the secretary of state shall pay the costs of operating and
28 maintaining the central voter file. As used in this section, costs of maintaining the central voter
29 file mean costs of annual software licenses, ~~hosting costs for the software in the state data-~~
30 ~~center~~hosting, costs of necessary enhancements to the software, database updates, and the

1 costs for implementing the duties and responsibilities of the secretary of state's office relating to
2 the central voter file.

3 **SECTION 19. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-02-05. Entry of new voters into the central voter file - Query of the central voter**
6 **file for double voting - Postelection verification.**

- 7 1. ~~Within forty-five days~~Before the meeting of the county canvassing board following an
8 election, the county auditor shall enter the name and required information of each
9 individual who voted at the last election who is not already contained in the central
10 voter file and update any required information requested and obtained at the last
11 election for any individual contained in the central voter file.
- 12 2. The secretary of state, with the assistance of the county auditors, ~~within eighty-five-~~
13 ~~days following an election~~before the meeting of the state canvassing board, shall
14 query the central voter file to determine if any individual voted more than once during
15 the preceding election. The secretary of state shall immediately notify the county
16 auditor and state's attorney in each affected county for further investigation.
- 17 3. Upon return of any nonforwardable mail from an election official, the county auditor
18 shall ascertain the name and address of that individual. If the individual is no longer at
19 the address recorded in the central voter file, the county auditor shall transfer the voter
20 to the correct precinct in the central voter file or notify the county of the voter's new
21 residence so the voter record can be transferred to the correct county. If a notice
22 mailed at least sixty days after the return of the first nonforwardable mail is also
23 returned by the postal service, the county auditor shall designate the individual as
24 "inactive" in the central voter file.

25 **SECTION 20. AMENDMENT.** Section 16.1-02-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **16.1-02-06. Reporting deceased individuals and changes of names - Changes to**
28 **records in the central voter file.**

- 29 1. The state health officer shall provide for the regular reporting to the secretary of state
30 the name, address, date of birth, and county of residence, if available, of each
31 individual eighteen years of age or older who has died while maintaining residence in

1 this state since the last report. Within thirty days after receiving a report, the secretary
2 of state shall designate each individual included in the report as "deceased" in the
3 central voter file. ~~The secretary of state shall prepare and distribute a list of individuals-~~
4 ~~designated as "deceased" to each county auditor.~~

5 2. The state health officer shall provide for the regular reporting to the secretary of state
6 the name, address, date of birth, and county of residence, if available, of each
7 individual eighteen years of age or older whose name was changed by marriage since
8 the last report. ~~The secretary of state shall prepare and distribute a list of those-~~
9 ~~individuals to each county auditor.~~

10 3. After receiving notice of death of an individual who has died outside the county, the
11 county auditor shall designate that individual as "deceased" in the central voter file.
12 Notice must be in the form of a printed obituary or a written statement signed by an
13 individual having knowledge of the death of the individual.

14 **SECTION 21. AMENDMENT.** Section 16.1-02-07 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **16.1-02-07. Reporting changes of names - Changes to records in the central voter file.**

17 The state court administrator shall provide for the regular reporting to the secretary of state
18 the name, address, date of birth, and county of residence, if available, of each individual
19 eighteen years of age or older whose name was changed by divorce or any order or decree of
20 the court since the last report. ~~The secretary of state shall prepare and distribute a list of those-~~
21 ~~individuals to each county auditor.~~ Any individual who has obtained a protection order under
22 section 14-07.1-03 or who is protected by a disorderly conduct restraining order under section
23 12.1-31.2-01 must be listed in the central voter file with a "secured active" designation. A
24 "secured active" designation means a record maintained as an active voter for pollbook
25 purposes, but otherwise is an exempt record. The state court administrator or the bureau of
26 criminal investigation shall make available upon request of the secretary of state the name of
27 each individual who has obtained such an order.

28 **SECTION 22. AMENDMENT.** Section 16.1-02-10 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **16.1-02-10. Posting voting history - Failure to vote - Individuals designated inactive.**

2 ~~Within seventy-five days after each election~~Before the end of the contest period allowed
3 under section 16.1-16-04, each county auditor shall post the voting history for each individual
4 who voted in the election. After the close of each even-numbered calendar year, the secretary
5 of state shall determine if any individual has not voted during the preceding four years and shall
6 change the status of each such individual to "inactive" in the central voter file. ~~The secretary of~~
7 ~~state shall prepare a report to each county auditor which contains the name of each individual~~
8 ~~who has been designated as "inactive" in the central voter file.~~ Although not counted in an
9 election, a late absentee ballot from an individual may not be used to designate an individual as
10 "inactive" in the central voter file.

11 **SECTION 23. AMENDMENT.** Section 16.1-02-11 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **16.1-02-11. Secretary of state ~~to~~may adopt rules for the purpose of maintaining the**
14 **central voter file.**

15 The secretary of state shall~~may~~may adopt rules and procedures according to subsection 3 of
16 section 16.1-01-01 ~~for the purpose of implementing~~to implement this chapter and ~~for updating~~
17 ~~and maintaining~~to update and maintain the central voter file. The rules ~~must~~may:

- 18 1. Provide for the establishment and maintenance of a central voter file.
- 19 2. Provide for the generation and assignment of a unique identifier to each individual
20 contained in the central voter file.
- 21 3. Provide procedures for entering data into the central voter file.
- 22 4. Provide for any additional information to be requested of and obtained from an
23 individual which is to be maintained in the central voter file, not already provided by
24 law, but necessary for the proper administration of the central voter file.
- 25 5. Provide for the exchange of records maintained by the appropriate state and county
26 agencies and officials for receiving regular reports regarding individuals and records of
27 individuals contained in the central voter file.
- 28 6. Allow each county auditor and the secretary of state to add, modify, and delete
29 information from the central voter file to ensure accurate and up-to-date records.
- 30 7. Allow each county auditor and the secretary of state to have access to the central
31 voter file for review, search, and inquiry capabilities.

1 8. Provide security and protection of all information contained in the central voter file and
2 to ensure that unauthorized access and entry is prohibited.

3 9. Provide a system for each county to identify the precinct to which an individual should
4 be assigned for voting purposes.

5 **SECTION 24. AMENDMENT.** Section 16.1-02-13 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **16.1-02-13. Information contained in pollbooks generated from the central voter file.**

8 The county auditor shall generate a pollbook for each precinct in the county from the central
9 voter file by the day before an election. With the exception of a record designated "secured
10 active" and the voter's birth date and driver's license or nondriver identification card number
11 issued by the department of transportation, which are exempt records, the precinct pollbooks
12 are open records under section 44-04-18. When providing access to or a copy of a pollbook, the
13 election official administering the election shall redact from the pollbook any voter records
14 designated as secured active along with the voter's date of birth and identification numbers
15 listed on the paper pollbook used in an election. If an electronic pollbook is used, the election
16 official, upon request for a copy of the pollbook, shall generate a list including the allowable
17 information detailed in this section for the individuals who voted in the election. The list provided
18 from an electronic pollbook may be requested by precinct or county. The secretary of state shall
19 prescribe procedures for generating pollbooks and for transporting the pollbooks to the election
20 ~~judges~~poll clerks for use on election day. ~~Pollbooks~~Electronic pollbooks may have a secure
21 connection from the polling place to the data maintained in the central voter file to ensure the
22 integrity of the election. Each pollbook generated from the central voter file must contain the
23 following information for each individual contained ~~therein~~in the pollbook:

- 24 1. The complete legal name of the individual.
25 2. The complete residential address of the individual.
26 3. The complete mailing address of the individual, if different from the individual's
27 residential address.
28 4. The unique identifier generated and assigned to the individual.
29 5. The county, legislative district, city or township, school district, county commissioner
30 district, if applicable, precinct name, and precinct number in which the individual

1 resides. A ballot-style code identifying this information may be used in place of the
2 information required by this subsection.

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

5 **SECTION 25. AMENDMENT.** Subsection 2 of section 16.1-05-01 of the North Dakota
6 Century Code is amended and reenacted as follows:

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

8 a. Except as provided in subdivision b:

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

14 (2) The district party chair shall notify the county auditor of the counties in which
15 the precincts are located of the appointment of the election judges at least
16 forty days before the primary, general, or special election. If this notice is not
17 received within the time specified in this section, the county auditor shall
18 appoint the judges and provide notice of the appointment to the district party
19 chair. If the county auditor has exhausted all practicable means to select
20 judges from within the boundaries of the precincts within the polling place
21 and vacancies still remain, the county auditor may select election judges
22 who reside outside of the voting precinct but who reside within the polling
23 place's legislative districts. If vacancies still remain, the county auditor may
24 select election judges who reside outside of the legislative districts but who
25 reside within the county.

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

30 **SECTION 26. AMENDMENT.** Section 16.1-06-02 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-06-02. Ballots prepared by county auditor or local official - Penalty.**

2 For a local election, the ballots must be printed and distributed under the direction of the
3 auditor or clerk of the local subdivision. For all other elections, ballots must be printed and
4 distributed under the direction of the county auditor, subject to the supervision and approval of
5 the secretary of state as to the legal sufficiency of the form, style, wording, and contents of the
6 ballots. If an auditor or clerk of a local subdivision, a county auditor, or the secretary of state
7 causes or approves the printing of a ballot listing an individual as a candidate when the official
8 knows or should know the individual does not meet the qualifications, or has not satisfied the
9 requirements to be a candidate, the official is guilty of an infraction.

10 **SECTION 27. AMENDMENT.** Section 16.1-06-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **16.1-06-04. Form and quality of ballots generally.**

- 13 1. All official ballots prepared under this title must:
- 14 4. a. Be printed on uniform quality and color of paper in an ink color suitable to make
15 the ballot clearly legible and compatible with the electronic voting system
16 requirements necessary to tabulate the votes.
- 17 2. b. Be of sufficient length to contain the names of all candidates to be voted for at
18 that election.
- 19 3. c. Have the language "Vote for no more than _____ name (or names)" placed
20 immediately under the name of each office.
- 21 4. d. Have printed ~~thereon~~ on the ballot "To vote for the candidate of your choice, ~~you~~
22 ~~must~~ darken the oval next to the name of that candidate. To vote for a person
23 whose name is not printed on the ballot, ~~you must~~ darken the oval next to the
24 blank line provided and write that person's name on the blank line."
- 25 5. e. Leave sufficient space for each office to write ~~a name, or names, as the case~~
26 ~~may be,~~ in lieu of those printed on the ballot.
- 27 6. f. ~~Immediately~~ Have an oval printed preceding and on the same line as the name of
28 each candidate ~~must be printed an oval in which the voter is to~~ darken to mark
29 the voter's choice ~~by darkening the oval next to the name of the candidate~~
30 ~~chosen.~~

1 7. g. Provide text boxes at the bottom of the first side of the ballot. The text box at the
2 bottom of the first column is to contain the words "Official Ballot, the name of the
3 county, the name or number of the precinct, and the date of the election". The
4 text box is to contain the words "All ballots, other than those used to vote
5 absentee, must first be initialed by appropriate election officials in order to be
6 counted". The text box at the bottom of the third column is to contain the word
7 "initials" preceded by a blank line where the judge or inspector shall initial the
8 ballot.

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

11 2. The ballot must contain the names of all candidates, the contents of measures as
12 required by section 16.1-06-09, and the statements of questions to be submitted to the
13 voters. The ballot must be arranged in a manner and form approximating as far as
14 possible the requirements of this section.

15 **SECTION 28. AMENDMENT.** Section 16.1-06-11 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **16.1-06-11. ~~Electronic voting~~Voting systems authorized.**

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

29 **SECTION 29. AMENDMENT.** Section 16.1-06-12 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **16.1-06-12. Definitions.**

2 As used in this title with regard to electronic voting systems:

- 3 1. ~~"Automatic tabulating equipment" means an apparatus which automatically tabulates~~
4 ~~and counts votes recorded on ballots or entered directly into a computer or other~~
5 ~~electronic device by means of a touchscreen or other data entry device and data~~
6 ~~processing machines which can be used for counting votes and tabulating results.~~
- 7 2. ~~"Ballot" means a handcount paper ballot or for an electronic~~from which the votes for
8 ~~candidates and questions are tabulated by hand or by a voting system includes a~~
9 ~~tabulating paper ballot, recorded by optical scan reader, containing the names of~~
10 ~~offices and candidates and the questions to be voted on, which is used in conjunction~~
11 ~~with the marking device and on which votes may be recorded. For direct recording~~
12 ~~electronic voting systems, ballot means the ballot display provided by electro-optical~~
13 ~~devices showing the names and candidates and the questions to be voted on that~~
14 ~~allows a voter to directly enter choices into electronic storage with the use of a~~
15 ~~touchscreen or other data entry device. The term includes the digital image of a~~
16 ~~marked ballot captured by a voting system.~~
- 17 2. "Ballot marking device" means a device for marking ballots with ink or other
18 substance, or any other method for recording votes on ballots such that the votes may
19 be tabulated and counted by tabulation.
- 20 3. "Counting center" means ~~the~~a ~~or locations~~ designated by the county auditor
21 for the ~~automatic tabulating and counting of ballots and tabulation of votes from the~~
22 ballots.
- 23 4. ~~"Direct recording electronic voting system~~Digital scan" means a voting system that
24 ~~records votes by means of a ballot display provided by electro-optical devices that~~
25 ~~allows a voter to directly enter choices into electronic storage with the use of a~~
26 ~~touchscreen or other data entry device. An alphabetic keyboard may be employed as~~
27 ~~an entry device to facilitate voting for write-in candidates. A voter's choices are stored~~
28 ~~in the direct recording electronic voting system's internal memory devices and added~~
29 ~~to the choices of all other voters~~procedure in which votes cast on a paper ballot are
30 ~~tabulated by examining marks made in voting response locations on the ballot and an~~
31 ~~image of the ballot is captured and retained.~~

- 1 5. ~~"Electronic voting~~Voting system" means ~~athe system, or the combination of electronic~~
2 ~~voting systems and devices authorized under this chapter, that may employ a marking~~
3 ~~device in conjunction with ballots or the use of a touchscreen or other data entry~~
4 ~~device and automatic tabulating equipment for the recording, tabulating, and counting~~
5 ~~of votes in an election.~~
- 6 6. ~~"Electronic voting system device" means a single unit of an electronic voting system.~~
- 7 7. ~~"Marking device" means a device for marking ballots with ink or other substance, or~~
8 ~~any other method for recording votes on ballots in a manner that the votes may be~~
9 ~~tabulated and counted by automatic tabulating equipment.~~
- 10 8. ~~"Optical scan" means a procedure in which votes cast on a paper ballot are tabulated~~
11 ~~by means of examining marks made in voting response locations on the ballot with an~~
12 ~~optical reader and devices authorized under this chapter which may employ a ballot~~
13 ~~marking device with use of a touchscreen or other data entry device to record and~~
14 ~~count votes in an election.~~

15 **SECTION 30. AMENDMENT.** Section 16.1-06-14 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **16.1-06-14. Requirements for electronic voting systems.**

18 Any electronic voting system used in an election in this state must:

- 19 1. Provide facilities for voting for nominated candidates, for persons not in nomination,
20 and upon questions or measures submitted to the voters.
- 21 2. Permit each voter to vote for as many persons for any office as the voter is entitled to
22 vote for, and must allow each voter to vote in primary elections for candidates for
23 nomination by the political party of the voter's choice, but ~~the system~~ must preclude
24 each voter from voting for more persons for any office than the voter is entitled to vote
25 for, from voting more than once for the same candidate or upon the same measure or
26 question submitted to the voters, or voting the ballot of more than one political party in
27 any primary election.
- 28 3. Permit each voter, insofar as is possible, by the replacement of spoiled ballots, to
29 change the voter's vote for any candidate, or upon any measure or question submitted
30 to the voters, up to the time the voter begins the final operation to register the voter's
31 vote.

- 1 4. Permit and require ~~voting in absolute~~ secrecy while voting, and must be so-
2 constructed and controlled ~~that so~~ no person other individual can see or know for whom
3 ~~any other an~~ elector has voted or is voting, except a ~~voter whom the person has~~
4 ~~assisted or is an individual~~ assisting in voting, marking the ballot at the request of the
5 elector as prescribed by law, and ~~that no person may~~ individual is able to see or know
6 the number of votes registered for any candidate ~~or tamper with any mechanism while~~
7 the polls are open.
- 8 5. Be provided with a procedure by the use of which, immediately after the polls are
9 closed, all voting is ~~absolutely~~ prevented.
- 10 6. Be so constructed that when properly operated ~~it~~ the system shall register or record
11 correctly and accurately every vote cast.
- 12 7. Be so constructed that a voter may readily learn the method of operating ~~it~~ the system.
- 13 8. Permit voting by ballot or by entering directly into a computer or other electronic device
14 by means of a touchscreen or other data entry device.
- 15 9. Permit voting for presidential electors by making only one mark.
- 16 10. Permit write-in voting and absentee voting.
- 17 11. Permit the rotation of names of candidates on ballots as required by this title.
- 18 12. ~~In the case of electronic systems procured after August 1, 2003, be capable of~~
19 ~~notifying a voter that the voter has overvoted, undervoted, and in the case of a primary~~
20 ~~election, cross-party voted before the voter casts a ballot.~~
- 21 13. ~~In the case of direct-recording electronic voting systems, be capable of preventing a~~
22 ~~voter from overvoting and cross-party voting before the voter casts a ballot.~~
- 23 14. ~~In the case of direct-recording electronic voting systems, be capable of producing in~~
24 ~~random order a paper copy of each ballot cast on the system.~~
- 25 15. ~~Ensure that any direct-recording electronic voting system procured or used in the state~~
26 ~~may not transmit uncounted votes or ballots through the internet.~~
- 27 16. Fulfill the criteria and standards established by the secretary of state according to
28 section 16.1-06-26.

29 **SECTION 31. AMENDMENT.** Section 16.1-06-17 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **16.1-06-17. County auditor to provide ballots and other electronic voting system**
2 **supplies.**

3 At the same time as other election supplies are provided and distributed, the county auditor
4 shall provide ~~to each precinct in the county using an electronic voting system:~~

- 5 1. A sufficient number of ~~electronic~~ voting system devices and ballots ~~if the electronic-~~
6 ~~voting system employs ballots.~~
- 7 2. One facsimile diagram of the entire face of the ~~electronic~~ voting system ~~device~~devices
8 as ~~it~~ the devices will appear ~~on election day~~ while the polls are open.
- 9 3. Appropriate instruction material for the use of the ~~electronic~~ voting system devices.
- 10 4. All other materials required to carry out the election process through the use of
11 ~~electronic~~ the voting system ~~system.~~

12 **SECTION 32. AMENDMENT.** Section 16.1-06-18 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-06-18. Delivery of ballots.**

15 County auditors shall deliver, or cause to be delivered, by ~~mail or other~~ reliable method, to
16 the inspector of elections in each ~~precinct~~ polling place the official ballots, ~~if available.~~ The
17 ballots must be delivered in sealed packages marked plainly with the name of the precinct for
18 ~~which the ballots are intended.~~ The county auditor also shall deliver or cause to be delivered a
19 suitable seal for ~~the purpose of sealing~~ the wrapper containing the ballots as provided in section
20 16.1-15-08.

21 **SECTION 33. AMENDMENT.** Section 16.1-06-19 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places.**

24 Each county auditor shall have posters printed, in large type, containing full instructions to
25 electors on obtaining and voting ballots and a copy of section 16.1-01-12, any federal laws
26 regarding prohibitions on acts of fraud and misrepresentations, and general information on
27 voting rights under applicable federal and state laws, including instructions on how to contact
28 the appropriate officials if these rights are alleged to have been violated. The county auditor
29 shall furnish at least one such poster to the election inspector in each election polling place
30 who, before the opening of the polls, shall conspicuously post at least one poster in the polling
31 place. The county auditor, at the time of delivering the ballots to the inspector of elections in

1 each polling place, shall deliver at least five copies of the newspaper publication or other copy
2 of the complete text of any constitutional amendment or initiated or referred measure to ~~such~~the
3 inspector of elections. One of the newspaper publications or copies must be posted
4 conspicuously in the polling place on the morning of the election. Each county auditor shall
5 furnish the election inspector in each polling place with four copies of a map showing the
6 election ~~precinct's~~precinct boundaries and information regarding the date of the election and the
7 hours during which polling places will be open. ~~The inspector shall, before~~Before the opening of
8 the polls, the inspector shall post the maps and information regarding the date of the election
9 and the hours during which polling places will be open at the entry to and in other conspicuous
10 places around the polling place.

11 **SECTION 34. AMENDMENT.** Section 16.1-06-25 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **16.1-06-25. ~~Electronic voting~~Voting systems - Violations - Penalty.**

14 Any person who violates any of the provisions of this chapter relating to electronic voting
15 systems, who tampers with or injures any electronic voting system or device to be used or being
16 used in any election, or who prevents the correct operation of any such system or device to be
17 used or being used in any election is guilty of a class ~~A misdemeanor~~C felony.

18 **SECTION 35. AMENDMENT.** Section 16.1-06-26 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **16.1-06-26. Secretary of state to adopt rules for the purpose of certifying and**
21 **~~decertifying electronic voting systems and electronic counting machines.~~**

- 22 1. The secretary of state may adopt rules according to subsection 3 of section
23 16.1-01-01 for certifying and decertifying ~~electronic counting machines authorized in~~
24 ~~section 16.1-06-10.1 and~~ electronic voting systems authorized in section 16.1-06-11,
25 including any software, hardware, and firmware components used as a part of an
26 ~~electronic~~a voting system ~~or electronic counting machine~~device for use and
27 procurement in the state. The rules may:
- 28 4. a. Establish criteria and standards with which all ~~electronic voting systems and~~
29 ~~electronic counting machines~~ must comply.
- 30 2. b. Describe the procedures for ~~electronic voting systems and electronic counting~~
31 ~~machines, any single device of an~~ electronic voting system ~~and electronic~~

1 ~~counting machine~~, and any update and enhancement made to them, to be
2 certified and decertified for procurement and use in the state.

3 3. ~~c.~~ c. Define what constitutes a vote on each ~~electronic voting system and electronic-~~
4 ~~counting machine~~ which has been certified for procurement in the state.

5 4. d. Describe the procedures for the secretary of state to follow when defining what
6 constitutes a vote on any new ~~electronic voting system and electronic counting-~~
7 ~~machine~~, any single device of an ~~electronic~~ a voting system and ~~electronic-~~
8 ~~counting machine~~, and any update and enhancement made to them.

9 ~~An electronic~~

10 2. A ~~voting system and electronic counting machine~~, a single device of an ~~electronic~~ a
11 ~~voting system and electronic counting machine~~, and an update and enhancement
12 made to them, in use by a county ~~prior to~~ before August 1, 2003, must be reviewed by
13 the secretary of state according to rules adopted under this section by April 1, 2004,
14 and must meet the requirements of the rules, or must be replaced by another
15 ~~electronic voting system and electronic counting machine~~, a single device of an
16 ~~electronic~~ a voting system and ~~electronic counting machine~~, and an update and
17 enhancement made to them, ~~that meets~~ meeting the requirements of the rules by
18 January 1, 2006.

19 **SECTION 36. AMENDMENT.** Subsection 1 of section 16.1-07-05 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 1. At any time in an election year, any qualified elector may apply to the county auditor,
22 the auditor or clerk of the city, or the business manager of the school district, as the
23 case may be, by personal delivery, facsimile, electronic mail or otherwise, for an
24 official ballot to be voted at that election. A voter may obtain an application form
25 approved by the secretary of state, for an absent voter's ballot for a general, special,
26 primary, county, city, or school election from the secretary of state, a county or city
27 auditor, a candidate, a political party, or a political committee. The application form
28 ~~must include a space for~~ provide the applicant the ability to indicate ~~whether the~~
29 ~~application is for all statewide~~ which elections in the calendar year ~~or only for the~~
30 ~~election that is immediately after the date of the application~~ the applicant wishes to vote
31 by absentee ballot.

1 **SECTION 37. AMENDMENT.** Section 16.1-07-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-07-06. Application form.**

4 1. Application for an absent voter's or mail ballot must be made on a form, prescribed by
5 the secretary of state, to be furnished by the proper officer of the county, city, or school
6 district in which the applicant is an elector, ~~or~~ any form, approved by the secretary
7 of state, ~~or any blank~~ containing the following:

8 a. The applicant's name.

9 b. The applicant's current or most recent North Dakota residential address.

10 c. The applicant's mailing address.

11 d. The applicant's current contact telephone number, if available.

12 e. The election for which the ballot is being requested.

13 f. The date of the request.

14 g. An affirmation that the applicant has resided, or will reside, in the precinct for at
15 least thirty days next preceding the election and will be a qualified elector of the
16 precinct.

17 h. The applicant's signature, a notification the signature on this affidavit will be
18 compared to the signature on the affidavit on the envelope in which the absentee
19 ballot must be placed.

20 i. The designation of the individual's status as a citizen of this country and resident
21 of this state living outside the United States, a uniformed service member living
22 away from the individual's North Dakota residence, or an immediate family
23 member of the uniformed service member living away from the individual's North
24 Dakota residence.

25 j. The applicant's date of birth.

26 k. The identification number from one of the applicant's valid forms of identification,
27 a copy of the applicant's long-term care certificate, and, if necessary, a copy of
28 the applicant's supplemental identification under section 16.1-01-04.1.

29 2. If the applicant is unable to sign the applicant's name to the application, the applicant
30 shall mark (X) or use the applicant's signature stamp on the application in the
31 presence of a disinterested individual. The disinterested individual shall print the name

1 of the individual marking the X or using the signature stamp below the X or signature
2 stamp and shall sign the disinterested individual's own name following the printed
3 name together with the notation "witness to the mark".

4 3. If the applicant does not possess or cannot secure an approved form of identification
5 as provided for under section 16.1-01-04.1 due to a disability with which the individual
6 lives and which prevents the individual from traveling to obtain, the application also
7 must be signed by another qualified elector who, by signing, certifies that the applicant
8 is a qualified elector. The secretary of state shall prescribe the form of the certification
9 required under this subsection. An individual may not certify the qualifications of more
10 than four applicants in an election.

11 4. ~~The application for a uniformed service member or an immediate family member~~
12 ~~temporarily stationed away from the individual's residence in this state, or a resident of~~
13 ~~the state temporarily living outside the country~~ must include the following additional
14 information if the individual desires to access the ballot by electronic means:

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

17 5. An incomplete application must be returned to the applicant for completion and
18 resubmission.

19 6. Except for the applicant's date of birth, identification card number, and any
20 supplemental documentation provided under section 16.1-01-04.1, the application is
21 an open record under section 44-04-18.

22 **SECTION 38. AMENDMENT.** Section 16.1-07-07 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **16.1-07-07. Delivering application form for ballot.**

25 The officers specified in section 16.1-07-05, upon request, shall ~~mail~~provide an application
26 form for an absent voter's ballot to the voter or may deliver the application form to the voter
27 upon a personal application made at the officer's office. The officers may also make available or
28 distribute the applications, prescribed by the secretary of state, to the public without any specific
29 request being made for the applications.

30 **SECTION 39. AMENDMENT.** Section 16.1-07-08 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-07-08. Delivering ballots - Envelopes accompanying - Affidavit on envelope -**
2 **Challenging electors voting by absentee ballot - Inability of elector to sign name.**

3 1. Upon receipt of an application for an official ballot properly filled out and duly signed,
4 or as soon ~~thereafter~~after receipt of the application as the official ballot for the precinct
5 in which the applicant resides has been prepared, the county auditor, city auditor, or
6 business manager of the school district, as the case may be, shall send to the absent
7 voter by mail or secure electronic delivery, if the secretary of state determines the
8 necessary technology is available and according to the choice made by the voter on
9 the application for the ballot, at the expense of the political subdivision conducting the
10 election, one official ballot, or personally deliver the ballot to the applicant or the
11 applicant's agent, which agent may not, at that time, be a candidate for any office to
12 be voted upon by the absent voter. The agent shall sign the agent's name before
13 receiving the ballot and deposit with the auditor or business manager of the school
14 district, as the case may be, authorization in writing from the applicant to receive the
15 ballot or according to requirements set forth for signature by mark. The auditor or
16 business manager of the school district, as the case may be, may not provide an
17 absent voter's ballot to ~~a person~~an individual acting as an agent who cannot provide a
18 signed, written authorization from an applicant. ~~No~~A person may not receive
19 compensation, including money, goods, or services, for acting as an agent for an
20 elector, ~~nor~~and a person may ~~a person~~not act as an agent for more than four electors
21 in any one election. A voter voting by absentee ballot may not require the political
22 subdivision providing the ballot to bear the expense of the return postage for an
23 absentee ballot.

24 2. With the exception provided in section 16.1-07-24 for secure remote electronic casting
25 of a ballot granted to a covered voter, the absent voter marking the ballot by electronic
26 means shall return the instrument containing the vote selections made by the voter to
27 the assigned polling place where, after being recorded in the pollbook by a poll clerk,
28 the choices listed in the instrument will be converted into the official ballot. Upon
29 confirmation by the voter the vote selections marked by the ballot marking device are
30 correct, the voter shall cast the ballot in the tabulation device.

1 3. Any qualified elector living with a disability that prevents the elector from reading or
2 marking the ballot without assistance and who wishes to cast an absentee ballot may
3 mark the electronic ballot by electronic means. The voter then shall deposit the ballot
4 electronically on the secure server that is used by covered voters as defined in section
5 16.1-07-18. Upon system notification that a ballot has been left by a qualified voter, an
6 election official shall print the ballot, place the ballot in a secrecy envelope, attach the
7 absent voter's application for the ballot, and securely store the enveloped ballot and
8 the application with all the other absentee ballots. When the absentee ballot election
9 board meets to process and count absentee ballots, the ballot from the covered voter
10 must be transferred onto a paper ballot and tabulated with all the other valid absent
11 voters' ballots.

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

18 Precinct _____

19 Name _____

20 Residential Address _____

21 City _____ ND Zip Code _____

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

27 Applicant's Signature _____

28 Date _____

29 The signature on this affidavit will be compared to the signature on the
30 affidavit included in the application for the absentee ballot.

1 5. If the absent voter is unable to sign the voter's name on the affidavit required under
2 this section, the voter shall mark (X) or use the applicant's signature stamp on the
3 affidavit in the presence of a disinterested individual. The disinterested individual shall
4 print the name of the individual marking the X or using the signature stamp below the
5 X or signature stamp and shall sign the disinterested individual's own name following
6 the printed name together with the notation "witness to the mark".

7 ~~3-6.~~ Each individual requesting an absent voter's ballot under this chapter must be
8 provided a set of instructions, prescribed by the secretary of state, sufficient to
9 describe the process of voting by absent voter's ballot. The voting instructions must
10 contain a statement informing the individual that the individual is entitled to complete
11 the absent voter's ballot in secrecy.

12 4-7. Each individual requesting an absent voter's ballot by mail under this chapter who
13 cannot read the English language or ~~who because of blindness or other~~ lives with a
14 disability is unable to mark preventing the individual from marking the voter's ballot,
15 ~~upon request,~~ may receive, upon request, the assistance of any individual of the
16 voter's choice, other than the voter's employer, an officer or agent of the voter's union,
17 a candidate running in that election, or a relative of a candidate as described in
18 subsection 2 of section 16.1-05-02, in marking the voter's ballot.

19 8. An election official shall deliver an absentee ballot to a qualified elector only upon
20 receipt of an application meeting the requirements of section 16.1-07-06 from the
21 elector.

22 **SECTION 40. AMENDMENT.** Section 16.1-07-09 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **16.1-07-09. Canvassing of mailed absent voter's ballots received late.**

25 In ~~the case of~~ congressional, state, county, city, or school district elections, if an envelope
26 postmarked or otherwise officially marked by the United States postal service or other mail
27 delivery system before the date of election and containing an absent voter's ballot is received by
28 the officer ~~too late to be forwarded to a polling place of the proper voting precinct in time to be~~
29 ~~tabulated~~ after election day, the ballot must be tallied by the canvassing board of the county, the
30 governing body of the city, or the school board of the school district, as the case may be, at the
31 time the returns are canvassed. Any envelope without a postmark or other official marking by

1 the United States postal service or other mail delivery system or with an illegible postmark or
2 other official marking and containing an absentee voter's ballot must be received by mail by the
3 proper officer prior to the meeting of the canvassing board. An absent voter may personally
4 deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on
5 the day before the election. Any envelope containing an absent voter's ballot with a postmark or
6 official date stamp on the day of election or thereafter may not be tallied with the ballots timely
7 submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this
8 section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon
9 receipt, the canvassing board shall determine that the elector was qualified to vote in that
10 precinct, that the elector did not previously vote in that precinct on the date of the election, and
11 that the signatures on the absentee ballot application and the voter's affidavit were signed by
12 the same ~~person~~individual before allowing the ballot to be tallied.

13 **SECTION 41. AMENDMENT.** Section 16.1-07-10 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-07-10. Care and custody of ballot - Submitted ballot may not be returned.**

16 Upon receipt of an envelope containing the absent voter's ballot, the proper officer
17 immediately shall attach the application of the absent voter and file the ballot with other
18 absentee ballots from the same precinct. If the election official has reason to suspect the
19 signature on the application was made by a different individual than the individual who signed
20 the affidavit on the return ballot envelope, the election official shall attempt to contact the absent
21 voter as soon as practicable to provide an opportunity to validate the signatures. Contact shall
22 first be attempted by phone if the absent voter provided a phone number on the submitted
23 application. If the election official is unable to speak with the absent voter, the election official
24 shall mail a notice informing the absent voter the absentee ballot has been identified as having
25 a signature mismatch and will be rejected if not verified. After submission to the appropriate
26 election officer, a marked absent voter's ballot may not be returned to the voter for any reason
27 other than to complete any missing information required on the affidavit on the back of the
28 return envelope. Before delivering the absentee ballots to ~~a polling place of the proper~~the
29 absentee ballot precinct, the proper officer shall package the ballots in a manner so the ballots
30 are sealed securely. The package must be endorsed with the name of the proper voting
31 precinct, the name and official title of the officer, and the words "This package contains an

1 absent voter's ballot and must be opened only according to the processing provisions of section
2 16.1-07-12." The officer shall keep the package safely in the officer's office until ~~the package~~ is
3 delivered by the officer as provided in this chapter.

4 **SECTION 42. AMENDMENT.** Subsection 1 of section 16.1-07-12.1 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 1. For any primary, general, or special statewide, district, or county election, the board of
7 county commissioners ~~may~~shall create a special precinct, known as an absentee
8 ballot precinct, ~~for the purpose of counting~~to count all absentee ballots cast in an
9 election in that county. The election board of the absentee ballot precinct must be
10 known as the absentee ballot counting board. The county auditor shall supply the
11 board with all necessary election supplies as provided in chapter 16.1-06.

12 **SECTION 43.** Section 16.1-07-13.1 of the North Dakota Century Code is created and
13 enacted as follows:

14 **16.1-07-13.1. Signature mismatch - Verification of signatures.**

- 15 1. If an election official, absentee ballot precinct election board, or the canvassing board
16 has reason to suspect the absent voter's signatures on the application and the affidavit
17 on the returned ballot envelope do not match, the election official shall notify the
18 absent voter the signatures do not appear to match. The notification must include
19 instructions by which the absent voter may confirm the validity of the signatures, a
20 statement that verification is required before the ballot can be counted, the date and
21 time of the canvassing board meeting, and a statement that verification must be
22 completed by the absent voter before close of the meeting of the canvassing board
23 occurring six days after the election.
- 24 2. The absent voter may confirm the validity of the signatures by written communication
25 or personal visit to the office of the election official administering the election. If the
26 voter confirms by written communication, the written communication must include a
27 copy of the identification used when applying for the ballot. If the voter confirms
28 through a personal visit to the election official, the voter must show the identification
29 used when applying for the ballot. The election official shall make a copy of the
30 identification shown, and the copy must be included with the application and ballot
31 when provided to the election board or canvassing board, whichever would be

1 appropriate based on when the voter verified the signatures. The canvassing board
2 shall include in the final tally the ballot from an absent voter who has completed the
3 verification process and was eligible to vote the returned ballot.

4 3. An individual contacted regarding the mismatch of signatures may deny making the
5 application or returning the ballot. The election official receiving the denial shall turn
6 the application and uncounted ballot over to the county state's attorney for
7 investigation of attempted voter fraud.

8 4. The election official shall record in the minutes of the county canvassing board the
9 manner and number of attempts made to contact an absent voter for signature
10 verification, the number of ballots included in the tally because the signatures were
11 verified, and the number of ballots ultimately rejected by the canvassing board along
12 with the reasons for the rejections.

13 5. After the meeting of the canvassing board, the election official shall send a written
14 notice to each absent voter whose ballot was rejected and not counted because of
15 signature mismatch.

16 **SECTION 44. AMENDMENT.** Section 16.1-07-15 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **16.1-07-15. Early voting precinct - Election board appointment - Closing and**
19 **canvassing.**

20 1. For any primary, general, or special statewide, district, or county election, the board of
21 county commissioners may, before the sixty-fourth day before the day of the election,
22 create a special precinct, known as an early voting precinct, to facilitate the conduct of
23 early voting in that county according to ~~chapters 16.1-13 and 16.1-15~~this title. At the
24 determination of the county auditor, more than one polling place may be utilized for the
25 purposes of operating the early voting precinct. The election board of the early voting
26 precinct must be known as the early voting precinct election board. The county auditor
27 shall supply the board with all necessary election supplies as provided in chapter
28 16.1-06.

29 2. If the board of county commissioners establishes an early voting precinct according to
30 this section, the following provisions apply:

- 1 a. Early voting must be authorized during the fifteen days immediately before the
2 day of the election. The county auditor shall designate the business days and
3 times during which the early voting election precinct will be open and publish
4 notice of the early voting center locations, dates, and times in the official county
5 newspaper once each week for three consecutive weeks immediately before the
6 day of the election.
- 7 b. The county auditor shall appoint the early voting precinct election board for each
8 early voting polling place that consists of one independent representative to act
9 as the inspector and an equal number of representatives from each political party
10 represented on an election board in the county, as set out in section 16.1-05-01,
11 to act as judges. Each official of the board shall take the oath required by section
12 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
- 13 c. The county auditor, with the consent of the board of county commissioners, shall
14 designate each early voting polling place in a public facility, accessible to the
15 elderly and the physically disabled as provided in section 16.1-04-02. With
16 respect to polling places at early voting precincts, "election day" as used in
17 sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct
18 polling place is open.
- 19 d. At the close of each day of early voting, the inspector, along with a judge from
20 each political party represented on the board, shall secure all election-related
21 materials, including:
- 22 (1) The pollbooks and access to any electronically maintained pollbooks.
23 (2) The ballot boxes containing voted ballots.
24 (3) Any void, spoiled, and unvoted ballots.
- 25 e. Ballot boxes containing ballots cast at an early voting polling place may not be
26 opened until the day of the election except as may be necessary to clear a ballot
27 jam or to move voted ballots to a separate locked ballot box in order to make
28 room for additional ballots.
- 29 f. Each early voting polling place may be closed, as provided in chapter 16.1-15, at
30 the end of the last day designated for early voting in the county. Results from the
31 early voting precinct may be counted, canvassed, or released under chapter

- 1 16.1-15 as soon as any precinct within the county, city, or legislative district
2 closes its polls on the day of the election. The county auditor shall designate a
3 location for the closing, counting, and canvassing process under chapter 16.1-15,
4 which location must be open to any person for the purpose of observing.
- 5 g. The early voting precinct election board shall comply with the requirements of
6 chapters 16.1-05, 16.1-06, 16.1-11, 16.1-11.1, 16.1-13, and 16.1-15, as
7 applicable.

8 **SECTION 45. AMENDMENT.** Section 16.1-08.1-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-08.1-01. Definitions.**

11 As used in this chapter, unless the context otherwise requires:

- 12 1. "Affiliate" means an organization that controls, is controlled by, or is under common
13 control with another organization. For purposes of this definition, control means the
14 possession, direct or indirect, of the power to direct or cause the direction of the
15 management and policies of an organization, whether through the ownership of voting
16 securities, by contract other than a commercial contract for goods or nonmanagement
17 services, or otherwise. Control is presumed to exist if an organization, directly or
18 indirectly, owns, controls, holds with the power to vote, or holds proxies representing
19 fifty percent or more of the voting securities of any other organization.
- 20 2. "Association" means any club, association, union, brotherhood, fraternity, organization,
21 or group of any kind of two or more persons, including labor unions, trade
22 associations, professional associations, or governmental associations, which is united
23 for any purpose, business, or object and which assesses any dues, membership fees,
24 or license fees in any amount, or which maintains a treasury fund in any amount. The
25 term does not include corporations, cooperative corporations, limited liability
26 companies, political committees, or political parties.
- 27 3. ~~"Candidate" means an individual who seeks nomination for election or election to-~~
28 ~~public office, and includes:~~
- 29 a. ~~An individual holding public office;~~

- 1 b. ~~An individual who has publicly declared that individual's candidacy for nomination-~~
2 ~~for election or election to public office or has filed or accepted a nomination for~~
3 ~~public office;~~
- 4 c. ~~An individual who has formed a campaign or other committee for that individual's-~~
5 ~~candidacy for public office;~~
- 6 d. ~~An individual who has circulated a nominating petition to have that individual's-~~
7 ~~name placed on the ballot; and~~
- 8 e. ~~An individual who has, in any manner, solicited or received a contribution for that~~
9 ~~individual's candidacy for public office, whether before or after the election for~~
10 ~~that office.~~
- 11 4. "Conduit" means a person that is not a political party, political committee, or candidate
12 and which receives a contribution of money and transfers the contribution to a
13 candidate, political party, or political committee when the contribution is designated
14 specifically for the candidate, political party, or political committee and the person has
15 no discretion as to the recipient and the amount transferred. The term includes a
16 transactional intermediary, including a credit card company or a money transfer
17 service that pays or transfers money to a candidate on behalf of another person.
- 18 5.4. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription,
19 loan, advance, deposit of money, or anything of value, made for the purpose of
20 influencing the nomination for election, or election, of any person to public office or
21 aiding or opposing the circulation or passage of a statewide initiative or referendum
22 petition or measure. The term also means a contract, promise, or agreement, express
23 or implied, whether or not legally enforceable, to make a contribution for any of the
24 above purposes. The term includes funds received by a candidate for public office or a
25 political party or committee which are transferred or signed over to that candidate,
26 party, or committee from another candidate, party, or political committee or other
27 source including a conduit. The term "anything of value" includes any good or service
28 of more than a nominal value. The term "nominal value" means the cost, price, or
29 worth of the good or service is trivial, token, or of no appreciable value. The term
30 "contribution" does not include:

- 1 a. A loan of money from a bank or other lending institution made in the regular
2 course of business.
- 3 b. Time spent by volunteer campaign or political party workers.
- 4 c. Money or anything of value received for commercial transactions, including rents,
5 advertising, or sponsorships made as a part of a fair market value bargained-for
6 exchange.
- 7 d. Money or anything of value received for anything other than a political purpose.
- 8 e. Products or services for which the actual cost or fair market value are reimbursed
9 by a payment of money.
- 10 f. An independent expenditure.
- 11 g. The value of advertising paid by a political party, multicandidate political
12 committee, or caucus which is in support of a candidate.
- 13 h. In-kind contributions from a candidate to the candidate's campaign.
- 14 ~~6-5.~~ "Cooperative corporations", "corporations", and "limited liability companies" are as
15 defined in this code, and for purposes of this chapter "corporations" includes nonprofit
16 corporations. However, if a political committee, the only purpose of which is accepting
17 contributions and making expenditures for a political purpose, incorporates for liability
18 purposes only, the committee is not considered a corporation for the purposes of this
19 chapter.
- 20 ~~7-6.~~ "Expenditure" means:
- 21 a. A gift, transfer, conveyance, provision, loan, advance, payment, distribution,
22 disbursement, outlay, or deposit of money or anything of value, except a loan of
23 money from a bank or other lending institution made in the regular course of
24 business, made for a political purpose or for the purpose of influencing the
25 passage or defeat of a measure.
- 26 b. A contract, promise, or agreement, express or implied, whether or not legally
27 enforceable, to make any expenditure.
- 28 c. The transfer of funds by a political committee to another political committee.
- 29 d. An independent expenditure.
- 30 ~~8-7.~~ "Expenditure categories" means the categories into which expenditures must be
31 grouped for reports under this chapter. The expenditure categories are:

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- 1 a. Advertising;
- 2 b. Campaign loan repayment;
- 3 c. Operations;
- 4 d. Travel; and
- 5 e. Miscellaneous.

6 ~~9-8.~~ "Independent expenditure" means an expenditure made for a political purpose or for
7 the purpose of influencing the passage or defeat of a measure if the expenditure is
8 made without the express or implied consent, authorization, or cooperation of, and not
9 in concert with or at the request or suggestion of, any candidate, committee, or
10 political party.

11 ~~10-9.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or
12 membership or maintains similar financial rights in a cooperative corporation.

13 ~~11-10.~~ "Person" means an individual, partnership, political committee, association,
14 corporation, cooperative corporation, limited liability company, or other organization or
15 group of persons.

16 ~~12-11.~~ "Personal benefit" means a benefit to the candidate or another person which is not for
17 a political purpose or related to a candidate's responsibilities as a public officeholder,
18 and any other benefit that would convert a contribution to personal income.

19 ~~13-12.~~ "Political committee" means any committee, club, association, or other group of
20 persons which receives contributions or makes expenditures for political purposes and
21 includes:

- 22 a. A political action committee not connected to another organization and free to
23 solicit funds from the general public, or derived from a corporation, cooperative
24 corporation, limited liability company, affiliate, subsidiary, or an association that
25 solicits or receives contributions from its employees or members or makes
26 expenditures for political purposes on behalf of its employees or members;
- 27 b. A candidate committee established to support an individual candidate seeking
28 public office which solicits or receives contributions for political purposes;
- 29 c. A political organization registered with the federal election commission, which
30 solicits or receives contributions or makes expenditures for political purposes;

- 1 d. A multicandidate political committee, including a caucus, established to support
2 multiple groups or slates of candidates seeking public office, which solicits or
3 receives contributions for political purposes; and
- 4 e. A measure committee, including an initiative or referendum sponsoring
5 committee at any stage of its organization, which solicits or receives contributions
6 or makes expenditures for the purpose of aiding or opposing a measure sought
7 to be voted upon by the voters of the state, including any activities undertaken for
8 the purpose of drafting an initiative or referendum petition, seeking approval of
9 the secretary of state for the circulation of a petition, or seeking approval of the
10 submitted petitions.
- 11 ~~14.13.~~ "Political party" means any association, committee, or organization which nominates a
12 candidate for election to any office which may be filled by a vote of the electors of this
13 state or any of its political subdivisions and whose name appears on the election ballot
14 as the candidate of such association, committee, or organization.
- 15 ~~15.14.~~ "Political purpose" means any activity undertaken in support of or in opposition to the
16 election or nomination of a candidate to public office and includes using "vote for",
17 "oppose", or any similar support or opposition language in any advertisement whether
18 the activity is undertaken by a candidate, a political committee, a political party, or any
19 person. In the period thirty days before a primary election and sixty days before a
20 special or general election, "political purpose" also means any activity in which a
21 candidate's name, office, district, or any term meaning the same as "incumbent" or
22 "challenger" is used in support of or in opposition to the election or nomination of a
23 candidate to public office. The term does not include activities undertaken in the
24 performance of a duty of a public office or any position taken in any bona fide news
25 story, commentary, or editorial.
- 26 ~~16.15.~~ "Public office" means every office to which an individual can be elected by vote of the
27 people under the laws of this state.
- 28 ~~17.16.~~ "Subsidiary" means an affiliate of a corporation under the control of the corporation
29 directly or indirectly through one or more intermediaries.

1 ~~48-17.~~ "Ultimate and true source" means the person that knowingly contributed over two
2 hundred dollars solely to influence a statewide election or an election for the legislative
3 assembly.

4 **SECTION 46. AMENDMENT.** Section 16.1-08.1-03.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-08.1-03.1. Special requirements for statements required of persons engaged in**
7 **activities regarding ballot measures.**

- 8 1. For each reportable contribution and expenditure under section 16.1-08.1-02.4, the
9 threshold for reporting is one hundred dollars for any person engaged in activities
10 described in subdivision e of subsection ~~43~~12 of section 16.1-08.1-01.
- 11 2. For contributions received from any contributor, a person engaged in activities
12 described in subdivision e of subsection ~~43~~12 of section 16.1-08.1-01 shall include the
13 following information regarding each subcontributor that has stated a contribution is for
14 the express purpose of furthering the passage or defeat of a ballot measure in the
15 statements required under section 16.1-08.1-02.4:
- 16 a. A designation as to whether any person contributed in excess of one hundred
17 dollars of the total contribution;
- 18 b. The name and mailing address of each subcontributor that contributed in excess
19 of one hundred dollars of the total contribution;
- 20 c. The contribution amounts of each disclosed subcontributor; and
- 21 d. The occupation, employer, and address for the employer's principal place of
22 business of each disclosed subcontributor.
- 23 3. An initiative and referendum sponsoring committee also shall file a disclosure
24 statement by the date the secretary of state approves the petition for circulation, and
25 shall file an additional statement on the date the petitions containing the required
26 number of signatures are submitted to the secretary of state for review. The
27 statements required under this subsection must be in the same form as the year-end
28 statements under section 16.1-08.1-02.4.
- 29 4. A sponsoring committee shall file a statement regarding its intent to compensate
30 circulators before paying for petitions to be circulated.

1 **SECTION 47. AMENDMENT.** Section 16.1-10-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-10-07. Candidate guilty of corrupt practice to vacate nomination of office.**

4 If any ~~person~~individual is found guilty of any corrupt practice, the ~~person~~individual must be
5 punished by being deprived of the ~~person's~~individual's government job, or the
6 ~~person's~~individual's nomination or election must be declared void, as the case may be. This
7 section does not remove from office a ~~person~~an individual who is already in office and who has
8 entered upon the discharge of the ~~person's~~individual's duties when ~~such~~the office is subject to
9 the impeachment provisions of the Constitution of North Dakota.

10 **SECTION 48. AMENDMENT.** Section 16.1-11-05.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **16.1-11-05.1. Participation in endorsements for nomination.**

13 ~~No person~~

14 1. An individual may not participate directly or indirectly in the endorsement for
15 nomination of more than one ~~person~~individual for each office to be filled, except a
16 ~~person~~an individual may sign a petition for placement of a candidate's name on the
17 primary ballot:

18 4. a. For more than one ~~person~~individual for each office for an office not under party
19 designation.

20 2. b. For more than one ~~person~~individual for each office for an office under party
21 designation only if all the candidates for whom the ~~person~~individual signs a
22 petition for an office are running under the same party designation.

23 2. Except for ~~persons~~individuals allowed to seek nomination to more than one office
24 pursuant to section 16.1-12-03, ~~no person~~an individual may not accept endorsement
25 for nomination by certificate or petition to more than one office. ~~No~~A political party is-
26 entitled to ~~may not~~ endorse for nomination by certificate more than one set of
27 nominees.

28 **SECTION 49. AMENDMENT.** Section 16.1-11-06 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **16.1-11-06. State candidate's petition or political party certificate of endorsement**
2 **required to get name on ballot - Contents - Filing.**

3 1. Every candidate for United States senator, United States representative, a state office,
4 including the office of state senator or state representative, and judges of the supreme
5 and district courts shall present to the secretary of state, between the first date
6 candidates may begin circulating nominating petitions according to this chapter and
7 before four p.m. of the sixty-fourth day before any primary election, either:

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

12 b. The nominating petition containing the following:

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

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

19 (3) The signatures and printed names of qualified electors, the number of which
20 must be determined as follows:

21 (a) If the office is under party designation, the signatures of three percent
22 of the total vote cast for the candidates of the party with which the
23 candidate affiliates for the same position at the last general election.

24 However, no more than three hundred signatures may be required.

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

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

29 (d) If the office is a legislative office, the signatures of at least one percent
30 of the total resident population of the legislative district as determined
31 by the most recent federal decennial census.

1 listed on the ballot as I have identified my ballot name below. I understand that nicknames
2 are allowed as part of my ballot name, but titles and campaign slogans are not permissible.
3 I have reviewed the requirements to hold office and I certify that I am qualified to serve if
4 elected.

5 _____
6 Ballot name requested

7 _____
8 Candidate's signature

9 Subscribed and sworn to before me on _____, _____.
10 _____

11 Notary Public

12 NOTARY SEAL My Commission Expires _____

13 **SECTION 51. AMENDMENT.** Section 16.1-11-11 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-11-11. County candidates' petitions - Filing - Contents.**

16 Every candidate for a county office shall present; a petition to the county auditor of the
17 county in which the candidate resides between the first date candidates may begin circulating
18 nominating petitions according to this chapter and ~~before~~ four p.m. of the sixty-fourth day before
19 any primary election; ~~to the county auditor of the county in which the candidate resides, a~~
20 ~~petition containing.~~ The petition or certificate of endorsement may be filed electronically, through
21 the mail, or by personal delivery. However, the petition or certificate of endorsement must be
22 complete and in the possession of the county auditor before four p.m. on the sixty-fourth day
23 before the primary election. A petition under this section must include the following:

- 24 1. The candidate's name, post-office address, and telephone number, the title of the
25 office to which the candidate aspires, the appropriate district number if applicable, and
26 whether the petition is intended for nomination for an unexpired term of office if
27 applicable.
- 28 2. The printed names and signatures of qualified electors, the number of which must be
29 determined as follows:

- 1 a. If the office is a county office, the signatures of not less than two percent of the
2 total vote cast for the office at the most recent general election at which the office
3 was voted upon.
- 4 b. If the office is a county office and multiple candidates were elected to the office at
5 the preceding general election at which the office was voted upon, the signatures
6 of not less than two percent of the votes cast for all candidates divided by the
7 number of candidates that were to be elected to that office.
- 8 c. If the office is a county office and no candidate was elected or no votes were cast
9 for the office at any general election, the number of signers equal to ~~the~~
10 ~~percentage as provided in paragraph 1 applied to~~ at least two percent of the total
11 average vote cast for the offices of sheriff and county auditor at the most recent
12 general election at which those officers were elected in the petitioner's county.
13 This average must be determined by dividing by two the total vote cast for those
14 offices.
- 15 d. In no case may more than three hundred signatures be required.
- 16 3. The residential address, mailing address (if different from residential address), and
17 date of signing for each signer. A post office box does not qualify as a residential
18 address. In ~~these~~ areas of the state where street addresses are not available, a
19 description of where the residential address is located ~~shall~~ must be used.

20 ~~If the petition or certificate of endorsement is mailed, it must be in the possession of the county~~
21 ~~auditor before four p.m. on the sixty-fourth day before the primary election.~~

22 **SECTION 52. AMENDMENT.** Section 16.1-11-12 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **16.1-11-12. Applicant's name placed on ballot.**

- 25 1. Upon receipt of the petition or certificate of endorsement provided for in section
26 16.1-11-06 ~~by the secretary of state and when,~~ accompanied by an affidavit as
27 provided in section 16.1-11-10, the secretary of state shall place the name of the
28 applicant on the primary election ballot in the party or appropriate section if the
29 documentation meets all applicable requirements.
- 30 2. Upon receipt of the petition or certificate of endorsement provided for in section
31 16.1-11-11 ~~by the county auditor and when,~~ accompanied by an affidavit as provided in

1 section 16.1-11-10, the county auditor shall place the name of the applicant on the
2 appropriate section of the no-party primary election ballot if the documentation meets
3 all applicable requirements.

4 3. A candidate whose name was placed on the ballot under this section may have the
5 candidate's name removed from the ballot by submitting a written request to the
6 appropriate filing officer within forty-eight hours after the filing deadline under
7 ~~section~~sections 16.1-11-06 and 16.1-11-11.

8 **SECTION 53. AMENDMENT.** Section 16.1-11-16 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-11-16. Form of nominating petitions.**

- 11 1. Each nominating petition circulated by candidates for any state, district, county, or
12 other political subdivision office must include or have attached the following
13 information, which must be made available to each signer at the time of signing:
- 14 a. The candidate's name, address, and telephone number and the title of the office
15 to which the candidate aspires, including the appropriate district number if
16 applicable, ~~or~~and whether the petition is intended for ~~an~~ a full or unexpired term of
17 office ~~if applicable.~~
 - 18 b. The name of the party the candidate represents if the petition is for an office
19 under party designation.
 - 20 c. The date of the election at which the candidate is seeking nomination or election.
- 21 2. Only qualified electors of the state, district, county, or other political subdivision, as the
22 case may be, may sign nominating petitions. In addition to signing and printing the
23 ~~person's~~individual's name, petition signers shall include the following information:
- 24 a. The date of signing.
 - 25 b. Complete residential address. A post office box does not qualify as a residential
26 address. In ~~these~~ areas of the state where street addresses are not available, a
27 description of where the residential address is located ~~shall~~must be used.
 - 28 c. Complete mailing address if different from residential address.
- 29 3. Incomplete signatures or accompanying information of petition signers which ~~does~~
30 not meet the requirements of this section ~~invalidate such~~invalidates the applicable
31 signatures. The use of ditto marks to indicate ~~that~~ the information contained on the

1 previous signature line carries over does not invalidate a signature. Signatures that
2 are not accompanied by a complete date are not invalid if the signatures are preceded
3 and followed by a signature that is accompanied by a complete date.

4 **SECTION 54. AMENDMENT.** Section 16.1-11-18 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-11-18. ~~Party committees to fill~~Filling vacancy occurring in endorsement or
7 nomination by petition for party office.**

- 8 1. If a vacancy occurs in any party certificate of endorsement at the primary election for
9 any state or legislative district office, the proper state or district executive committee of
10 the political party may fill the vacancy by filing another certificate of endorsement with
11 the ~~proper officer~~secretary of state as provided in ~~sections~~section 16.1-11-06 and
12 ~~16.1-11-11~~.
- 13 2. If no party endorsement has been made by certificate and a vacancy occurs in a slate
14 of candidates seeking party nomination by petition at the primary election, the proper
15 state or district executive committee may fill the vacancy by filing a certificate of
16 endorsement with the ~~proper officer~~secretary of state as provided in ~~sections~~section
17 16.1-11-06 and ~~16.1-11-11~~.
- 18 3. If party endorsements by certificate have been made for any state or district office and
19 a vacancy occurs in the slate of ~~persons~~individuals seeking nomination at the primary
20 election because of the unavailability of the ~~person~~individual who is seeking
21 nomination by petition, that vacancy may not be filled except by petition.
- 22 4. ~~If a vacancy occurs in a slate of statewide candidates after the candidates have been~~
23 ~~nominated at the primary election, the proper state executive committee may fill any~~
24 ~~vacancy by filing a certificate of nomination with the secretary of state. The chairman~~
25 ~~and secretary of the committee shall make and file with the secretary of state a~~
26 ~~certificate setting forth the cause of the vacancy, the name of the person for whom the~~
27 ~~new nominee is to be substituted, the fact that the committee was authorized to fill~~
28 ~~vacancies, and any further information as may be required to be given in an original~~
29 ~~certificate of nomination. When such a certificate is filed, the secretary of state shall~~
30 ~~certify the new nomination and the name of the person who has been nominated to fill~~
31 ~~the vacancy in place of the original nominee to the various auditors. If the secretary of~~

1 state already has forwarded the certificate, the secretary of state forthwith shall certify
2 to the auditors the name and address of the new nominee, the office the new nominee
3 is nominated for, the party or political principle the new nominee represents, and the
4 name of the person for whom the new nominee is substituting. Failure to publish the
5 name of a new nominee does not invalidate the election.

6 5. ~~If a vacancy occurs in a slate of legislative candidates after the candidates have been~~
7 ~~nominated at the primary election, the proper district executive committee may fill the~~
8 ~~vacancy by filing a certificate of nomination with the secretary of state. The chairman~~
9 ~~and secretary of the committee shall make and file with the secretary of state a~~
10 ~~certificate setting forth the cause of the vacancy, the name of the person for whom the~~
11 ~~new nominee is to be substituted, the fact that the committee was authorized to fill~~
12 ~~vacancies, and any further information as may be required to be given in an original~~
13 ~~certificate of nomination. When the certificate is filed, the secretary of state shall certify~~
14 ~~the new nomination to the various county auditors affected by the change by~~
15 ~~forwarding to them the name of the person who has been nominated to fill the vacancy~~
16 ~~in place of the original nominee. The certification must include the name and address~~
17 ~~of the new nominee, the office the new nominee is nominated for, the party or political~~
18 ~~principle the new nominee represents, and the name of the person for whom the new~~
19 ~~nominee is substituting. Failure to publish the name of a new nominee does not~~
20 ~~invalidate the election.~~

21 6. ~~A vacancy in a nomination following a primary election may not be filled according to~~
22 ~~subsection 4 or 5 unless the nominated candidate:~~

- 23 a. ~~Dies;~~
24 b. ~~Would be unable to serve, if elected, as a result of a debilitating illness;~~
25 c. ~~Ceases to be a resident of the state or an individual nominated for legislative~~
26 ~~office will not be a resident of the legislative district at the time of the election; or~~
27 d. ~~Ceases to be qualified to serve, if elected, as otherwise provided by law.~~

28 Vacancies to be filled according to the provisions of this section may be filled not later than the
29 sixty-fourth day prior to ~~before~~ the election.

30 **SECTION 55. AMENDMENT.** Section 16.1-11-19 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of**
2 **filing.**

3 1. If a vacancy exists on a no-party ballot for a state office or for judge of a district court,
4 the vacancy may be filled by filing with the secretary of state, before four p.m. on the
5 sixty-fourth day ~~prior to~~before the primary election, a written petition as provided in
6 section 16.1-11-06, stating ~~that~~ the petitioner desires to become a candidate for
7 nomination to the office for which a vacancy exists. If the petition is mailed, ~~the~~the
8 petition must be in the possession of the secretary of state before four p.m. on the
9 sixty-fourth day ~~prior to~~before the primary election. The petition for the nomination of
10 any ~~person~~individual to fill the vacancy must be signed by qualified electors equal in
11 number to at least two percent of the total vote cast for governor at the most recent
12 general election in the state or district at which the office of governor was voted upon,
13 but in no case may more than three hundred signatures be required.

14 2. If a vacancy exists on a no-party ballot in a county or district within a county, the
15 vacancy may be filled by filing with the county auditor, before four p.m. of the sixty-
16 fourth day ~~prior to~~before the primary election, a written petition as provided in section
17 16.1-11-11, stating ~~that~~ the petitioner desires to become a candidate for nomination to
18 the office for which a vacancy exists. If the petition is mailed, ~~the~~the petition must be in
19 the possession of the county auditor before four p.m. on the sixty-fourth day ~~prior~~
20 ~~to~~before the primary election. The petition for the nomination of any ~~person~~individual
21 to fill the vacancy must be signed by qualified electors as provided in subdivision c of
22 subsection 2 of section 16.1-11-11.

23 3. A vacancy in the no-party ballot must be deemed to exist when a candidate who was
24 qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns,
25 or otherwise becomes disqualified to have the candidate's name printed on the ballot.

26 **SECTION 56. AMENDMENT.** Section 16.1-11-20 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-11-20. Certified list of nominees transmitted to county auditor by secretary of**
29 **state.**

30 At least fifty-five days before any primary election, the secretary of state shall ~~electronically~~
31 transmit electronically to each county auditor a certified list containing the names of each

1 ~~person~~individual for whom nomination papers have been filed in the secretary of state's office
2 and who are~~is~~ entitled to be voted for at the primary election. A designation of the office for
3 which each is a candidate, and if applicable, the party or principle represented by each must be
4 included.

5 **SECTION 57. AMENDMENT.** Section 16.1-11-21 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **16.1-11-21. County auditor to publish sample primary election ballot and notice of**
8 **time and place of election.**

9 The county auditor shall publish, once each week for two consecutive weeks before the
10 primary election, in the official county newspaper, and if no newspaper is published in the
11 county then in a newspaper published in an adjoining county in the state, ~~the following~~a notice
12 accompanied by a statement substantially the same as: "The arrangement of candidate names
13 on ballots in your precinct may vary from the published sample ballots, depending on the
14 precinct and legislative district in which you reside." The notice must include:

- 15 1. A copy of the sample ballot of the primary election, as arranged by order and direction
16 of the county auditor. The form of the sample ballot must conform in all respects to the
17 form prescribed for the sample primary ballot by the secretary of state. The county
18 auditor shall publish the sample ballot in all forms appropriate for the method or
19 methods of voting in the county. ~~Absent voters' ballots may not be considered in~~
20 ~~determining which form of voting is used.~~ Candidates from each legislative district that
21 falls within the boundaries of the county must be listed in a separate box or category
22 within the sample ballot by legislative district number to enable the voters in each
23 legislative district to ascertain the legislative candidates in their specific district.
- 24 2. The date of the primary election.
- 25 3. The hours during which the polls will be open.
- 26 4. ~~The statement that the primary election balloting will be held in the regular~~name and
27 address for each polling place in each ~~precinct~~the county.

28 ~~The notice must be published in the official county newspaper once each week for two~~
29 ~~consecutive weeks before the primary election and include a statement in substantially the~~
30 ~~following format:~~

1 The arrangement of candidate names appearing on ballots in your precinct may vary
2 from the published sample ballots, depending upon the precinct and legislative district
3 in which you reside.

4 **SECTION 58. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one**
7 **political party.**

8 At the primary election there may be only one ballot containing the separate sections for all
9 parties or principles. The judges and the inspector of elections shall inform each elector at the
10 primary, before voting, if the voter votes for candidates of more than one political party the
11 voter's political party ballot will be rejected. The ballot must be in the following form:

- 12 1. The ballot must be entitled the "consolidated primary election ballot".
- 13 2. Each political party or principle having candidates at the primary election must have a
14 separate section on the ballot.
- 15 3. At the head of each ~~column~~section must be printed the name of the political party or
16 principle which it represents.
- 17 4. Spanning the columns containing the political party ballot sections and ~~prior to before~~
18 the party names or principle titles must be printed: "In a Political Party Primary
19 Election, you may only vote for the candidates of one political party. This ballot
20 contains the number of political parties or principles and a description of where the
21 political parties or principles are to be found in the ~~columns~~sections below. If you vote
22 in more than one political party's section, your Political Party Ballot will be rejected;
23 however, all votes on the No Party and Measure Ballots will still be counted."
- 24 5. Immediately below the warning against voting for candidates of more than one political
25 party must be printed: "To vote for the candidate of your choice, you must darken the
26 oval next to the name of that candidate. To vote for a ~~person~~an individual whose name
27 is not printed on the ballot, you must darken the oval next to the blank line provided
28 and write that ~~person's~~individual's name on the blank line."
- 29 6. The offices specified in section 16.1-11-26 must be arranged in each section with the
30 name of each office in the center of each political party section at the head of the
31 names of all the ~~aspirants~~candidates for the office.

- 1 7. Immediately under the name of each office must be printed: "Vote for no more than
2 _____ name (or names)."
- 3 8. Immediately preceding and on the same line as the name of each ~~aspirant~~candidate
4 must be printed an oval in which the voter is to mark the voter's choice by darkening
5 the oval next to the name of the candidate chosen.
- 6 9. The political party or principle which cast the largest vote for governor at the most
7 recent primary election at which the office of governor was voted upon must have the
8 first section, and the political party or principle casting the next largest vote must have
9 the second section, and so on.

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

13 **SECTION 59. AMENDMENT.** Section 16.1-11-31 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-11-31. Precinct election reports.**

16 ~~Optical scan ballot~~Vote tabulation machines must print reports detailing the election results
17 from the precinct after the close of the polls.

18 **SECTION 60. AMENDMENT.** Section 16.1-11-32 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **16.1-11-32. Poll lists kept by clerks of elections.**

21 The clerks of primary elections shall keep either one paper or one electronic list of the
22 names of all ~~persons~~individuals voting at each primary election. The clerks must return the list,
23 which must be a part of the records and filed with other election returns. Only one complete list
24 of voters may be kept whether or not a special election is held simultaneously with the primary
25 election.

26 **SECTION 61. AMENDMENT.** Section 16.1-11-33 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-11-33. Judges of election to run report of primary election - Contents.**

29 The judges of a primary election in each ~~precinct~~polling place shall run a separate report for
30 each political party or principle requesting the report, containing the names of all
31 ~~persons~~individuals voted for at the primary election, the number of votes cast for each

1 candidate, and for what office. The report must be ~~subscribed~~approved and signed by the
2 election inspector and election judges and must be filed with the returns in the office of the
3 county auditor.

4 **SECTION 62. AMENDMENT.** Section 16.1-11-35 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-11-35. Nominations by write-in.**

7 ~~The provisions of this title do~~This title does not prevent any elector from writing on the paper
8 ballot, ~~or in the case of direct-recording electronic voting system devices, or~~ entering by
9 touchscreen or other data entry device, the name of any ~~person~~individual for whom the elector
10 desires to vote, and ~~such~~the vote must be counted according to the provisions for the counting
11 of write-in votes found in section ~~16.1-12-02.2~~16.1-15-01.1.

12 **SECTION 63. AMENDMENT.** Section 16.1-11-36 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-11-36. Vote required at primary election for nomination.**

15 ~~A person~~An individual may not be deemed nominated as a candidate for any office at any
16 primary election unless that ~~person~~individual receives a number of votes at least equal to the
17 number of signatures required, ~~or which would have been required had the person not had the~~
18 ~~person's name placed on the ballot through a certificate of endorsement,~~ on a petition to have a
19 candidate's name for that office placed on the primary ballot.

20 **SECTION 64. AMENDMENT.** Section 16.1-11-37 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **16.1-11-37. Vote required for nomination on no-party ballot - Partisan nominations**
23 **prohibited.**

24 The number of ~~persons~~individuals to be nominated as candidates for any one no-party
25 office ~~must be that~~is the number of ~~persons~~individuals who receive the highest number of votes
26 and who total twice the number of available positions for the office if that many
27 ~~persons~~individuals are candidates for nomination. ~~Provided, however, that a person~~However, an
28 individual may not be deemed nominated as a candidate for any no-party office at any primary
29 election unless the number of votes received by the ~~person~~individual equals no less than the
30 number of signatures of qualified electors required to be obtained on a petition to have a

1 candidate's name for the office placed on the primary ballot. ~~No-partisan~~Partisan nominations
2 may not be made for any of the offices mentioned in section 16.1-11-08.

3 **SECTION 65. AMENDMENT.** Section 16.1-11-39 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-11-39. ~~Persons~~Individuals nominated in accordance with provisions of chapter**
6 **eligible as candidates in general election.**

7 1. All ~~persons~~individuals nominated in accordance with the provisions of this chapter are
8 eligible as candidates to be voted for at the ensuing general election, except as
9 provided in this section.

10 2. Upon receipt of the documents filed by each candidate, the filing officer immediately
11 shall complete a thorough review of the documents and notify the candidate of any
12 necessary corrections that must be made before four p.m. on the sixty-fourth day
13 before the primary election. The filing officer may not place a candidate's name on the
14 primary election ballot if the filed documents are insufficient and remain uncorrected.

15 3. If the filing officer discovers, after four p.m. on the sixty-fourth day before the primary
16 election, an insufficiency in the certificate of endorsement or petition or affidavit of
17 candidacy filed by a candidate, the candidate may not be deemed nominated until the
18 insufficiency is corrected. Upon discovery of the insufficiency, the filing officer
19 immediately shall notify the candidate in writing of the necessary corrections. The
20 candidate shall file the necessary corrections as soon as practicable, but not later than
21 four p.m. on the sixty-fourth day before the general election.

22 **SECTION 66. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **16.1-11.1-02. Application for mail ballots.**

25 The county auditor shall mail an application form for a mail ballot to each ~~individual~~active
26 voter listed in the central voter file for the county and each qualified individual eligible to vote in
27 the state for the first time on one date no sooner than the fiftieth day before the election and no
28 later than the fortieth day before the election. The county auditor, for two consecutive weeks
29 after the date on which the mail ballot applications are mailed, shall publish in the official
30 newspaper of the county an application form for a mail ballot and a notice that additional mail

1 ballot applications may be obtained from the election official. The application form for a mail
2 ballot must be in substantially the form provided in section 16.1-07-06.

3 **SECTION 67. AMENDMENT.** Section 16.1-11.1-03 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-11.1-03. Mail ballot distribution.**

6 The county auditor shall mail to each qualified applicant an official mail ballot with a return
7 identification envelope, voter's affidavit, and instructions according to section 16.1-07-08.

8 **SECTION 68. AMENDMENT.** Section 16.1-11.1-08 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-11.1-08. Election laws applicable.**

11 When applicable, all election procedures provided in this title must be followed. The only
12 difference between mail ballot voting and absentee voting is, for mail ballot voting, the
13 application for the ballot is mailed to each active voter listed in the central voting file for the
14 county administering an election by mail and each qualified individual eligible to vote in the state
15 for the first time.

16 **SECTION 69. AMENDMENT.** Section 16.1-12-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **16.1-12-01. Certificate of nomination - Party and independent.**

19 A certificate of nomination must be either:

- 20 1. The certificate of nomination required to be executed by the state or a county
21 canvassing board pursuant to sections 16.1-15-40 and 16.1-15-21, respectively, for
22 party nominations;
- 23 2. The certificate of nomination by petition for independent nominations provided for by
24 this chapter; or
- 25 3. The certificate of nomination executed by a state or district executive committee for
26 party nominations provided for by this chapter.

27 **SECTION 70. AMENDMENT.** Section 16.1-12-02.1 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **16.1-12-02.1. Applicant's name placed upon ballot - Affidavit to accompany petition.**

30 Upon receipt by the secretary of state of the certificate of nomination provided for in section
31 16.1-12-02 accompanied by the following affidavit, the secretary of state shall place the

1 applicant's name upon the general election ballot. The affidavit may be filed electronically,
2 through the mail, or by personal delivery, and must be in the possession of the appropriate filing
3 officer before four p.m. on the sixty-fourth day before the general or special election. If the
4 affidavit is filed electronically, the candidate shall retain the original copy. The affidavit must be
5 substantially as follows:

6 State of North Dakota)
7) ss.
8 County of _____)

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

19 _____
20 Ballot name requested

21 Date _____
22 Candidate's signature

23 Subscribed and sworn to before me on _____, _____.
24 _____
25 Notary Public

26 NOTARY SEAL My Commission Expires _____

27 **SECTION 71. AMENDMENT.** Section 16.1-12-03 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **16.1-12-03. Certificate of nomination to contain only one name - ~~Person~~Individual to**
2 **participate in only one nomination - Exception.**

3 No certificate of nomination provided for by this chapter, except in the case of presidential
4 electors, may contain the name of more than one nominee for each office to be filled. A
5 ~~person~~An individual elected or appointed to an office appearing on the no-party ballot or
6 seeking nomination and election to a no-party office may also seek nomination to legislative
7 office and may serve in the legislative assembly, unless the no-party office is the office of district
8 court judge, or a statewide elective office. Except as may be permitted in this section, no
9 ~~person~~individual may participate directly or indirectly in the nomination of more than one
10 ~~person~~individual for each office to be filled on the general election ballot, except a ~~person~~an
11 individual may sign a certificate of nomination by petition for more than one ~~person~~individual for
12 each office, and no ~~person~~individual may accept a nomination to more than one office on the
13 general election ballot. No political party is entitled to more than one set of nominees on the
14 official general election ballot.

15 **SECTION 72. AMENDMENT.** Section 16.1-12-06 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **16.1-12-06. ~~Person~~Individual nominated by more than one party -~~Column in which~~**
18 **~~name placed.~~**

19 When one ~~person~~individual has been nominated for the same office by more than one body
20 of electors qualified to make nominations for public office, the nominee shall file with the
21 secretary of state on or before the last day fixed by law for filing certificates of nomination for
22 the office, a signed statement designating the ~~column on the official ballot in which~~political party
23 the nominee desires the ~~nominee's name to appear~~represent. The ~~column~~political party so
24 designated must be the ~~column allotted to~~political party of one of the bodies of electors by
25 whom the ~~person~~individual was nominated. In the absence of a timely written designation as
26 provided by this section, the secretary of state shall place the ~~person's~~individual's name in the
27 ~~column allotted to~~with the name of the political party of the body of electors from which the
28 individual's nomination was first received ~~notice of the person's nomination~~first.

29 **SECTION 73. AMENDMENT.** Section 16.1-12-07 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **16.1-12-07. If nominee declines - Certificate void.**

2 Any ~~person~~individual intending to decline a nomination shall do so by filing written notice of
3 that intention with the officer with whom the certificate nominating the ~~person~~individual is filed. If
4 the written notice is filed with the appropriate officer within forty-eight hours after four p.m. on
5 the sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must
6 be in the physical possession of the appropriate officer within forty-eight hours after four p.m. on
7 the sixty-fourth day before the election.

8 **SECTION 74. AMENDMENT.** Section 16.1-12-09 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-12-09. Filling vacancy existing on no-party ballot - Petition required - Time of**
11 **filing.**

12 1. Whenever a vacancy exists on a no-party ballot for a state office or for judge of a
13 district court, ~~such~~the vacancy may be filled by filing with the secretary of state, before
14 four p.m. on the sixty-fourth day, a written petition as provided in section 16.1-11-06,
15 stating that the petitioner desires to become a candidate for election to the office for
16 which a vacancy exists. ~~If the petition is mailed, it must be in the physical possession~~
17 ~~of the secretary of state before four p.m. on the sixty-fourth day prior to the general~~
18 ~~election.~~ The petition for the nomination of any ~~person~~individual to fill ~~such~~the vacancy
19 must be signed by qualified electors equal in number to at least two percent of the
20 total vote cast for the office of governor in the state or district, at the most recent
21 general election at which the office of governor was voted upon, but in no case may
22 more than three hundred signatures be required.

23 2. Whenever a vacancy exists on a no-party ballot in a county or district within a county,
24 the vacancy may be filled by filing with the county auditor before four p.m. of the sixty-
25 fourth day a written petition as provided in section 16.1-11-11, stating that the
26 petitioner desires to become a candidate for election to the office for which a vacancy
27 exists. ~~If such petition is mailed or otherwise delivered, it must be in the possession of~~
28 ~~the county auditor before four p.m. on the sixty-fourth day prior to the general election.~~
29 The petition for the nomination of any ~~person~~individual to fill the vacancy must be
30 signed by qualified electors equal in number to at least thirty percent of the total vote
31 cast for the office of governor at the most recent general election in the county or

1 district at which the office of governor was voted upon, but in no case may more than
2 three hundred signatures be required.

3 3. A vacancy in the no-party ballot must be deemed to exist when:

4 ~~1.~~ a. A candidate nominated at the primary election dies, resigns, or otherwise
5 becomes disqualified to have the candidate's name printed on the ballot at the
6 general election.

7 ~~2.~~ b. No candidates were nominated at the primary election because the office did not
8 yet exist.

9 ~~3.~~ c. The timing of the vacancy in an office makes it impossible to have ~~the office~~
10 placed on the ~~primary~~ ballot.

11 4. The petition or certificate of endorsement may be filed electronically, through the mail
12 or by personal delivery, and must be complete and in the possession of the filing
13 officer before four p.m. on the sixty-fourth day before the general or special election.

14 **SECTION 75.** Section 16.1-12-10 of the North Dakota Century Code is created and enacted
15 as follows:

16 **16.1-12-10. Party committee to fill vacancy occurring after nomination for party office.**

17 1. If a vacancy occurs in a slate of statewide candidates after the candidates have been
18 nominated at the primary election, the state executive committee of the party that
19 submitted the slate of statewide candidates may fill the vacancy by filing a certificate of
20 nomination with the secretary of state. The chairman and secretary of the committee
21 shall make and file with the secretary of state a certificate setting forth the cause of the
22 vacancy, the name of the individual for whom the new nominee is to be substituted,
23 the fact the committee was authorized to fill vacancies, and any other information
24 required to be provided in an original certificate of nomination. When the certificate of
25 nomination to fill a vacancy is filed, the secretary of state shall certify the new
26 nomination and the name of the individual who has been nominated to fill the vacancy
27 in place of the original nominee to the various county auditors. If the secretary of state
28 already has forwarded the certificate, the secretary of state shall certify to the county
29 auditors the name and address of the new nominee, the office the new nominee is
30 nominated for, the party or political principle the new nominee represents, and the

1 name of the individual for whom the new nominee is substituting, as soon as possible.

2 Failure to publish the name of a new nominee does not invalidate the election.

3 2. If a vacancy occurs in a slate of legislative candidates after the candidates have been
4 nominated at the primary election, the executive committee of the district in which the
5 vacancy occurs and of the party that submitted the slate of legislative candidates may
6 fill the vacancy by filing a certificate of nomination with the secretary of state. The
7 chairman and secretary of the committee shall make and file with the secretary of
8 state a certificate setting forth the cause of the vacancy, the name of the individual for
9 whom the new nominee is to be substituted, the fact the committee was authorized to
10 fill vacancies, and any other information required to be provided in an original
11 certificate of nomination. When the certificate of nomination to fill a vacancy is filed,
12 the secretary of state shall certify the new nomination to the various county auditors
13 affected by the change by forwarding to the auditors the name of the individual who
14 has been nominated to fill the vacancy in place of the original nominee, as soon as
15 possible. The certification must include the name and address of the new nominee,
16 the office the new nominee is nominated for, the party or political principle the new
17 nominee represents, and the name of the individual for whom the new nominee is
18 substituting. Failure to publish the name of a new nominee does not invalidate the
19 election.

20 3. A vacancy in a nomination following a primary election may not be filled according to
21 subsection 1 or 2 unless the nominated candidate:

- 22 a. Dies;
23 b. Would be unable to serve, if elected, as a result of a debilitating illness;
24 c. Ceases to be a resident of the state;
25 d. Is nominated to be a member of the legislative assembly and, at the time of the
26 election, will not be a resident of the legislative district to be represented; or
27 e. Ceases to be qualified to serve, if elected, as otherwise provided by law.

28 4. Vacancies to be filled according to this section may be filled not later than the
29 sixty-fourth day before the election.

30 **SECTION 76. AMENDMENT.** Section 16.1-13-05 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 The arrangement of candidate names appearing on ballots in your precinct may vary
2 from the published sample ballots, depending upon the precinct and legislative district
3 in which you reside.

4 **SECTION 77. AMENDMENT.** Section 16.1-13-09 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-13-09. Resignation of members of legislative assembly after certificate of**
7 **election.**

8 Any ~~person~~individual who receives a certificate of election as a member of the legislative
9 assembly may resign ~~such~~the office ~~although the person may not have even if the individual has~~
10 ~~not~~ entered upon the execution of the duties thereof ~~nor of the office or~~ taken the requisite oath
11 of office.

12 **SECTION 78. AMENDMENT.** Section 16.1-13-14 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-13-14. Special election to fill vacancies - Party committee to call convention to**
15 **nominate - Individual nominations.**

16 If a special election is called to fill a vacancy in any office for which a party nomination may
17 be made, the proper party committee shall call a convention to make a party nomination for
18 ~~such~~the office, and the ~~precinct committeemen of the district~~ must be duly convened and shall
19 elect the required number of delegates to ~~such~~the convention. Individual nominations for special
20 elections must be made in accordance with the provisions of chapter 16.1-12.

21 **SECTION 79. AMENDMENT.** Section 16.1-13-17 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-13-17. Certificate of nomination by convention - Contents - Delivery.**

24 All nominations made by a convention as provided in this chapter must be certified. The
25 certificate must be delivered by the secretary or president of the convention by registered or
26 certified mail or in person, without charge, to the secretary of state. The certificates of
27 nomination must be in writing and must contain all of the following:

28 1. The name of each ~~person~~individual nominated, ~~that person's~~individual's post-office
29 address, telephone number, the office for which ~~that person~~the individual is
30 nominated, the legislative district number if applicable, and whether the certificate is
31 intended for an unexpired or full term of office ~~if applicable.~~

1 2. A designation in not more than five words of the party or principle which the
2 convention represents.

3 3. The signature, post-office address, and verification of the presiding officer and
4 secretary of the convention.

5 ~~The certificate as prescribed in this section must be delivered by the secretary or president of~~
6 ~~the convention by registered or certified mail or in person, without charge, to the secretary of~~
7 ~~state or the county auditor, as the case may be.~~

8 **SECTION 80. AMENDMENT.** Section 16.1-13-18 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-13-18. Two or more organizations filing certificates representing same party -**
11 **Secretary of state to determine authorized organization - Review of determination.**

12 If two or more organizations claiming or purporting to represent the same political party
13 shall file certificates of nomination under the same party designation, or if the certificates
14 indicate that the nominations were made by any person individual or organization representing
15 the same political party, the secretary of state, within the time prescribed by law for certifying
16 state nominations to the county auditor, shall determine from the best available sources of
17 information which organization filing the certificates is the legally authorized representative of
18 the party. The decision of the secretary of state in determining which organization is the legally
19 authorized representative of the party is subject to review by the district court in a proper action
20 instituted for such purpose.

21 **SECTION 81. AMENDMENT.** Section 16.1-13-19 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-13-19. Election not to be held in room where alcoholic beverages sold.**

24 ~~No election may~~An election may not be held in a room in which alcoholic beverages
25 ~~commonly are being sold while the polls are open or while election board members are~~
26 ~~completing assigned work.~~

27 **SECTION 82. AMENDMENT.** Section 16.1-13-23 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **16.1-13-23. Preparation of ballot by elector - Depositing - Second-chance voting.**

30 Upon receipt of a ballot within the provided secrecy sleeve, the elector, ~~forthwith and~~
31 without leaving the polling place, shall retire alone to one of the voting booths or compartments

1 to prepare the elector's ballot by darkening the oval opposite the name of each individual for
2 whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment,
3 an initiated or referred measure, or any other question to be submitted to a vote of the people,
4 the elector shall darken the oval opposite the word or words expressing the elector's wish. After
5 preparing the ballot, the elector shall place the ballot back in the provided secrecy sleeve so
6 ~~if~~the ballot is concealed and so the ~~endorsement~~initials of the inspector or election judge may
7 be seen. The elector then shall deposit the ballot in the optical scanning device and wait to
8 determine if the ballot is deposited into the ballot box or if the optical scanning device has
9 indicated a possibility for a second-chance voting condition. If a second-chance voting condition
10 is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot
11 must be cast as is and may not be returned to the voter even if errors exist causing certain
12 votes not to be counted.

13 **SECTION 83. AMENDMENT.** Section 16.1-13-25 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-13-25. Elector may write name on ballot - Counting.**

16 The provisions of this title do not prevent any elector from writing on the paper ballot, or ~~in~~
17 ~~the case of direct-recording electronic voting system devices,~~ entering by touchscreen or other
18 data entry device, the name of any ~~person~~individual for whom the elector desires to vote, and
19 ~~such~~the vote must be counted according to the provisions for the counting of write-in votes
20 found in section ~~16.1-12-02-2~~16.1-15-01.1.

21 **SECTION 84. AMENDMENT.** Section 16.1-13-27 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-13-27. Assistance to elector - Polling place accessibility.**

24 Any elector may receive the assistance of any ~~person~~individual of the elector's choice, other
25 than the elector's employer, officer or agent of the elector's union, a candidate running in that
26 election, or a relative of a candidate as provided in subsection 2 of section 16.1-05-02, in
27 marking the elector's ballot. If the elector requests the assistance of a member of the election
28 board, ~~however,~~ the elector shall receive the assistance of both election judges in the marking
29 of the elector's ballot. ~~No one~~An individual assisting any elector in marking a ballot under this
30 chapter may not give information regarding the ballot. ~~No~~An elector, other than one who
31 requests assistance, may not divulge to anyone within the polling place the name of any

1 candidate for whom the elector intends to vote, nor ask, nor receive the assistance of any
2 ~~person~~individual within the polling place to mark the elector's ballot. Parking facilities at polling
3 places must be accessible to individuals living with physical disabilities and the elderly and the
4 ~~physically disabled,~~ and must be clearly marked.

5 **SECTION 85. AMENDMENT.** Section 16.1-13-28 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **16.1-13-28. Penalty for requesting voter to vote in certain manner.**

8 Any ~~person~~individual chosen to assist a voter who shall ~~request~~requests the assisted voter
9 ~~the person is assisting~~ to vote for or against any person or any issue is guilty of a class B
10 misdemeanor.

11 **SECTION 86. AMENDMENT.** Section 16.1-13-29 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **16.1-13-29. Election booths or compartments - Number required - Expense.**

14 The inspector of elections shall provide a sufficient number of voting booths or
15 compartments in the inspector's polling place, which must be designed to enable the elector to
16 mark, or in the case of ~~direct recording electronic voting system~~ballot marking devices, enter by
17 touchscreen or other data entry device, the elector's ballot screened from observation. The
18 number of booths or compartments in precincts may not be less than one for each one hundred
19 fifty electors or fraction thereof of one hundred fifty electors in the precinctprecincts served by
20 the polling place. The expense of providing the booths or compartments must be paid in the
21 same manner as other election expenses. ~~One electronic voting system~~At least one certified
22 tabulation device and ballot marking device must be provided in each precinctpolling place.

23 **SECTION 87. AMENDMENT.** Section 16.1-13-30 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **16.1-13-30. One ~~person~~individual to occupy booth - Time limit in booth.**

26 ~~Not~~No more than one ~~person~~individual may be permitted to occupy any one voting booth or
27 compartment at one time except when providing lawful assistance. ~~A person~~An individual may
28 not remain in or occupy a booth or compartment longer than necessary to prepare the
29 ~~person's~~individual's ballot.

30 **SECTION 88. AMENDMENT.** Section 16.1-13-31 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-13-31. Removal of ballot from polling place before closing of polls - Prohibited.**

2 ~~No person~~An individual may not take or remove any ballot from the polling place before the
3 close of the polls.

4 **SECTION 89. AMENDMENT.** Subsection 1 of section 16.1-15-01 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 1. In the canvass of the votes at any election, a ballot is void and may not be counted if:
- 7 a. It is not endorsed with the initials as provided in this title; or
- 8 b. It is impossible to determine the elector's choice from the ballot or parts of a
9 ballot, and in the case of ~~electronic~~ voting systems, based upon the criteria
10 established by the secretary of state for ~~counting votes on each electronic voting~~
11 ~~system authorized for procurement and use in the state according to~~determining
12 what constitutes a vote under section 16.1-06-26.

13 **SECTION 90. AMENDMENT.** Section 16.1-15-01.1 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-15-01.1. Counting write-in votes.**

- 16 1. ~~An election board or~~A canvassing board may not ~~count or~~ be required to ~~report~~
17 ~~officially~~list in the official abstract of votes:
- 18 a. The number of write-in votes for an individual required to file a certificate of
19 write-in candidacy under section 16.1-12-02.2 but who has ~~not filed~~failed to file a
20 certificate of candidacy and ~~been~~be certified as a write-in candidate;
- 21 b. The number of write-in votes for a fictitious person or individual clearly not eligible
22 to qualify for the office for which the vote was cast;
- 23 c. A statement concerning a candidate under this subsection;
- 24 d. The number of write-in votes for a candidate for office if the total number of
25 write-in votes cast for the contest constitutes ten percent or less of the votes cast
26 by the voters for the candidate receiving the most votes for the office or political
27 party's nomination of a candidate for the office, except in the case of a primary
28 election in which enough votes were cast as write-in votes to qualify a name for
29 the general election ballot; ~~and~~or

1 e. The number of write-in votes for a candidate receiving fewer than three write-in
2 votes unless the number of votes received qualifies the candidate to be
3 nominated or elected.

4 2. A write-in vote for a candidate whose name is printed on the ballot will be tallied as a
5 vote for the candidate if the voter has not voted for more candidates than allowed for
6 the contest or voted for the same candidate more than once in that contest.

7 3. A write-in vote that does not need to be canvassed individually based on the
8 requirements of subsection 1 must be listed on the official canvass report as
9 "scattered write-ins".

10 **SECTION 91. AMENDMENT.** Section 16.1-15-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **16.1-15-02. Board of election to generate canvass reports - Location - Public may**
13 **attend.**

14 After the polls are closed, the inspector of elections and the judges immediately shall
15 ~~immediately~~ generate the canvass report from the electronic voting system. The ballots counted
16 by the machine must be equal in number with the names on the poll clerks' lists. If the numbers
17 are not equal, the pollbooks are to be rechecked to find the discrepancy. The canvass ~~shall~~must
18 continue without adjournment until completed and must be open to the public. Ballots may not
19 be removed to another location before the canvass report is generated after the ballot boxes
20 have been opened. Except in unusual and compelling circumstances, the canvass shall occur
21 at the polling place. If good and substantial reasons exist for the removal of the ballots and
22 election records to another location for canvass, ~~the other location must be in the same precinct~~
23 ~~and the removal must be approved by the election board. In no case may the ballots be~~
24 ~~removed to another location prior to generating the canvass report after the ballot boxes have~~
25 ~~been opened.~~ Upon approval of a change of location by the election board as provided in this
26 section, the approximate time and location of the canvass must be prominently posted on the
27 main entrance to the polling place, the ballots and records must be moved in the presence of
28 the election board, and the canvass as provided in this chapter must proceed immediately upon
29 arrival at the alternate location.

30 **SECTION 92. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-15-08. Wrapping and returning of ballots to county recorder - Ballots set aside to**
2 **election official administering the election.**

- 3 1. After generating the reports and poll lists provided for in section 16.1-15-06 for delivery
4 to the county auditor, the election board shall ~~cause the ballots containing lawful~~
5 ~~write-in votes cast at the election to be placed in a suitable wrapper to form a complete~~
6 ~~wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar~~
7 ~~manner~~wrap all ballots. The ballots and wrappers ~~must then be tightly~~ then must be
8 secured tightly at the outer end to completely envelop and hold the ballots together.
9 Ballots that are void must be secured in a separate wrapper and must be marked
10 "void". Ballots that are spoiled must be ~~separately~~ separately and marked
11 "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each
12 wrapper must be endorsed with the names or numbers of the polling places, the
13 precincts served by the polling places, and the date on which the election was held.
14 The wrappers must be sealed securely in a manner prescribed by the county auditor
15 so the wrappers cannot be opened without an obvious and permanent breaking of the
16 seal. The ballots, together with those found void or spoiled, and the opened envelopes
17 from voted absentee ballots and the unopened envelopes of absentee ballots rejected
18 as defective, must be returned in person to the county recorder. At the meeting of the
19 county canvassing board, the county ~~recorder~~auditor shall deliver the report of the
20 ballots containing lawful write-in votes from all the precincts within the county if these
21 ~~votes were not~~ are required to be canvassed by the ~~polling place election board on~~
22 ~~election night. Ballots used with any electronic voting system or counted by an~~
23 ~~electronic counting machine must be sealed and returned as provided in this~~
24 ~~section~~according to section 16.1-15-01.1.
- 25 2. Each ballot within a sealed envelope set aside for an individual who was unable to
26 provide a valid form of identification when appearing to vote in the election must be
27 delivered to the election official responsible for the administration of the election so the
28 envelope containing the ballot is available if the individual for whom the ballot was set
29 aside appears in the official's office to verify the individual's eligibility as an elector. The
30 verified and unverified ballots set aside must be delivered to the members of the
31 canvassing board for proper inclusion in or exclusion from the canvass of votes.

1 **SECTION 93. AMENDMENT.** Section 16.1-15-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-15-09. ~~Electronic voting~~Voting systems –~~Electronic counting machines~~ -**
4 **Returns.**

- 5 1. Election officers shall generate reports of votes cast ~~upon electronic~~ and counted by
6 voting systems and counted on electronic counting machines for all candidates and for
7 any measures or questions in the same manner as now or hereafter provided by law
8 or rule insofar as such provisions of law or rule are applicable.
- 9 2. Within the ability of an ~~electronic counting machine~~ a tabulation device to accurately do
10 so, all votes are ~~to~~ must be counted by the machine. After the election results have
11 been accumulated centrally in the county auditor's office, if the number or percentage
12 of write-in votes for an office meet the criteria established in section
13 ~~16.1-12-02.2~~ 16.1-15-01.1, the county canvassing board shall review and approve the
14 canvass of the votes for the write-in names for that office conducted by the county
15 auditor's office to determine final election results.
- 16 3. ~~Votes cast upon a direct recording electronic voting system must be tabulated from the~~
17 ~~voter's choices stored in the system's internal memory devices that are added to the~~
18 ~~choices of all other voters.~~
- 19 4. The county auditor shall designate the public place or places where electronic voting
20 ~~system~~ absentee and mail ballots and ballots to be counted on electronic counting
21 machines must be delivered by the election inspector and the two election judges to
22 be and counted in the presence of the election inspector and that least two election
23 judges. The county auditor shall designate the public place or places where votes cast
24 ~~upon direct recording electronic voting systems are to be counted.~~
- 25 ~~5.4.~~ 5.4. All counting centers used for counting votes cast upon electronic voting systems shall
26 have tabulating equipment that has an element that generates Each voting system
27 must generate a printed record at the beginning of ~~its~~ the system's operation which
28 verifies ~~that~~ the tabulating elements for each candidate position and each question
29 and the public counter are all set at zero. The ~~tabulating equipment must~~ voting system
30 also must be equipped with an element that generates a ~~printed record,~~ at the end of
31 ~~its~~ the system's operation, a printed record of the total number of voters whose ballots

1 have been tabulated, the total number of votes cast for each candidate on the ballot,
2 and the total number of votes cast for or against any measure appearing on the ballot.
3 The election inspector and ~~the two~~ election judges ~~must~~shall certify both printed
4 records.

5 ~~6-5.~~ If any ~~electronic voting system ballot or a ballot counted by an electronic counting~~
6 ~~machine is damaged or defective so that it~~the ballot cannot be counted properly
7 counted by the ~~automatic tabulating or electronic counting equipment~~voting system, a
8 true duplicate copy must be made by election officials of opposed interests and
9 substituted for the damaged or defective ballot. All duplicate ballots must be ~~clearly~~
10 labeled duplicate clearly, must bear a serial number that must be recorded on the
11 damaged or defective ballot, and must be wrapped and delivered with other ballots to
12 the county recorder.

13 **SECTION 94. AMENDMENT.** Section 16.1-15-10 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-15-10. Failure of ~~automatic tabulating or electronic counting equipment~~voting**
16 **system - Counting by alternate method.**

17 If the ~~automatic tabulating or electronic counting equipment used as part of any electronic~~
18 ~~voting system, any electronic voting system device, or any electronic machine~~ fails to operate
19 during the ballot count at any election, the ballots must be counted by an alternate method.

20 **SECTION 95. AMENDMENT.** Section 16.1-15-13 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **16.1-15-13. County recorder to keep ballots - Exception - Use of ballots as evidence.**

23 Immediately upon receiving the ballots as provided in section 16.1-15-08, the county
24 recorder shall give a receipt to the election judges and shall place the ballots ~~properly arranged~~
25 ~~in the order of the precinct number~~ in boxes that shall ~~be~~are securely locked. The boxes must
26 be placed in a fireproof vault and must be kept securely for forty-five days if the ballots do not
27 contain federal offices and twenty-two months if the ballots contain federal offices. ~~With the~~
28 ~~exception of the ballots containing lawful write-in votes that may be counted at the meeting of~~
29 ~~the county canvassing board, the~~The ballots may not be opened nor inspected, except upon
30 court order in a contested election, when it is necessary to produce them at a trial for any
31 offense committed at an election, or to permit election officials to complete their duties. Either

1 forty-five days or twenty-two months after the election dependent upon the retention schedule
2 outlined in this section, upon determination by the county recorder that no contest is pending,
3 the ballots must be destroyed. If any contest of the election of any officer voted for at the
4 election or a prosecution under the provisions of this title is pending at the expiration of ~~such~~the
5 time, the ballots may not be destroyed until the contest or prosecution is finally determined. The
6 ballots returned to the county recorder as provided in this section must be received in evidence
7 without introducing further foundation.

8 **SECTION 96. AMENDMENT.** Section 16.1-15-15 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-15-15. County canvassing board - Composition.**

11 The county canvassing board must be composed of the county recorder, county auditor,
12 chairman of the board of county commissioners, and a representative of each of the two
13 political parties that received the highest number of votes cast for governor at the most recent
14 general election at which a governor was elected. An individual who served on an election
15 board during the election may not serve as a political party representative on the canvassing
16 board for that same election. The district chairmen of the political parties from each legislative
17 district within the county shall appoint the respective political party representative. The county
18 canvassing board must be comprised of at least five members, and both political parties must
19 be represented. Each political party from each legislative district within a county may request
20 representation on the canvassing board if there is equal representation from each of the political
21 parties. For any special county election when the ~~county is composed of more than one~~
22 ~~legislative district and the~~ election does not involve any legislative or statewide office, the county
23 canvassing board must be composed of the county recorder, county auditor, and chairman of
24 the board of county commissioners, ~~and one representative as appointed by the state chairman~~
25 ~~for each of the two political parties that received the highest number of votes cast for governor~~
26 ~~at the most recent general election at which a governor was elected.~~

27 **SECTION 97. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **16.1-15-17. Time of county canvassing board meeting - Oath required -**

2 **Reconsideration of canvass.**

3 On the ~~sixth~~thirteenth day following each election, the county canvassing board shall meet
4 and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After
5 the initial meeting of the board as provided in this section, any two or more members may call a
6 meeting of the board and upon approval of a majority of the members, the board shall
7 recanvass the results of the election or any portion thereof and may correct any previous
8 canvass or certification or both in regard to the election. Any correction of any previous
9 certification of election results as provided in this section must be immediately dispatched to the
10 secretary of state who shall call a meeting of the state canvassing board as provided in section
11 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous
12 certification of the election results.

13 **SECTION 98. AMENDMENT.** Section 16.1-15-19 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-15-19. County canvassing board to disregard technicalities, misspelling, and**
16 **abbreviations - Ballots set aside - Write-in votes canvassed - Votes from unestablished**
17 **precinctspolling places disregarded.**

18 In canvassing the election returns, the county canvassing board shall disregard
19 technicalities, misspelling, and the use of initial letters or abbreviations of the name of any
20 candidate for office if it can be ascertained for whom the vote was intended. Under
21 section 16.1-01-04.1, the board shall include in the canvass the votes from any ballot set aside
22 and subsequently verified by the individual who marked the ballot, and review each envelope
23 containing an unverified ballot forwarded to the board from the polling place election officials.
24 The envelopes for all ballots set aside along with the envelopes containing uncounted ballots
25 from unverified individuals must be kept with all other election materials for the required
26 retention period under section 16.1-15-13. Under section ~~16.1-12-02-2~~16.1-15-01.1, the board
27 shall review and approve the canvass report of all qualifying write-in votes. The board may not
28 count votes polled in any place except at established precinctspolling places. The county
29 canvassing board is authorized to initial all absentee ballots cast pursuant to section 16.1-07-09
30 ~~that~~which were not considered or counted by the absentee ballot precinct election boardsboard
31 and to make a final determination of eligibility for all ballots ~~which~~that were rejected at the-

1 various ~~precincts in the county~~ for the reasons provided in sections ~~16.1-07-11~~16.1-07-10 and
2 16.1-07-12.

3 **SECTION 99. AMENDMENT.** Section 16.1-15-20 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-15-20. County canvassing board may subpoena members of election board to**
6 **correct errors - Failure to obey subpoena is a contempt.**

7 When the returns of the election board officers are made to the county canvassing board, if
8 any provision of law relative to the duties of the election board officers has not been complied
9 with by ~~said~~the officers and the provision of law is capable of correction by the election board,
10 the county canvassing board may issue its subpoenas to the election board officers of the
11 ~~precinct where~~in polling place in which the defect occurs. The subpoenas must require the
12 election board officers to appear ~~forthwith~~as soon as possible before the county canvassing
13 board to correct any omission or mistake according to the facts. The amended or corrected
14 returns then must be acted upon by the board. If any election board officer, subpoenaed as
15 provided in this section, neglects or refuses to obey the subpoena, the ~~person~~individual so
16 neglecting or refusing must be arrested upon a bench warrant issued out of the office of the
17 clerk of the district court in the county where the proceedings occur. The ~~person~~individual
18 arrested must be brought before the county canvassing board and shall make the necessary
19 correction. A refusal on the part of an election board officer to make a correction must be
20 deemed a contempt of the district court.

21 **SECTION 100. AMENDMENT.** Section 16.1-15-21 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-15-21. Primary election statement prepared by county canvassing board -**
24 **Contents.**

25 The county canvassing board, upon canvassing the returns of a primary election, shall
26 prepare an abstract signed by the members of the board and filed in the office of the county
27 auditor. A separate abstract of the votes cast must be transmitted to the secretary of state
28 according to reporting instructions specified by the secretary of state. The abstract filed in the
29 office of the county auditor must contain all of the following:

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

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

14 **SECTION 101. AMENDMENT.** Section 16.1-15-25 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **16.1-15-25. County auditor to forward abstract of votes of general election to**
17 **secretary of state - Contents - Abstract for presidential electors.**

18 ~~Within eight days and before~~Before four p.m. on the eighth day following any general
19 election, the county auditor of each county shall provide to the secretary of state a certified
20 abstract of the votes cast in the county at the election according to the reporting instructions
21 specified by the secretary of state.

22 **SECTION 102. AMENDMENT.** Section 16.1-15-30 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **16.1-15-30. Determining tie vote for legislative assembly.**

25 If the requisite number of ~~persons~~individuals is not elected to the state senate or house
26 of representatives because two or more ~~persons~~individuals have equal and the highest number
27 of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If
28 a recount results in a tie vote, the ~~county auditor, if the legislative district in question is within~~
29 ~~one county, shall notify the secretary of state.~~The secretary of state shall notify the
30 ~~persons~~individuals with equal and the highest number of votes to appear in the office of the
31 secretary of state at a time fixed by the secretary of state. The time fixed may not be more than

1 five days from the date the tie is determined by the county auditor. On the date fixed, the
2 ~~persons~~individuals notified to appear shall publicly decide by a drawing of names which of them
3 must be declared elected, and the secretary of state shall prepare and deliver to the
4 ~~person~~individual elected a certificate of election as provided in this chapter. If the legislative
5 district in question is within the boundaries of more than one county, the county auditor of the
6 county which cast the greater number of votes for the office of governor at the last election at
7 which a governor was elected shall proceed in accordance with this section.

8 **SECTION 103. AMENDMENT.** Section 16.1-15-37 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-15-37. Examination of abstracts by state canvassing board - Messenger**
11 **dispatched to county when error discovered.**

12 After the state canvassing board is formed, ~~it~~the board shall examine the certified abstracts
13 of the county canvassing boards and verify the computed final results as provided in section
14 16.1-15-33 ~~and if~~. If it appears that:

- 15 1. Any any material mistake has been made in the computation of votes cast for any
16 ~~person~~individual, or
- 17 2. The the county canvassing board in any county has failed to canvass the votes or any
18 part ~~thereof~~ of the votes cast in any precinct in ~~it~~the county, the board may dispatch a
19 messenger to the county auditor of the county, at the expense of the county, with the
20 board's requirement in writing to the county auditor to certify the fact concerning the
21 mistake or the reason why the votes were not canvassed. The county auditor, to whom
22 the requirement is delivered, shall make a true and full answer ~~thereto~~ to the board
23 under the county auditor's hand and official seal and shall deliver the answer with all
24 convenient dispatch to the secretary of state.

25 **SECTION 104. AMENDMENT.** Section 16.1-15-42 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **16.1-15-42. Certificate of result of general or special election by state canvassing**
28 **board - Secretary of state to receive.**

29 The statements provided for in section 16.1-15-41 must be certified by the members of the
30 state canvassing board, who shall subscribe their names to the statements. The board then
31 shall determine what ~~persons~~individuals have been duly elected to the offices and, shall

1 prepare and subscribe on each statement a certificate of that determination, and shall deliver
2 the ~~same statement~~ to the secretary of state. The candidate ~~or candidates~~ to be elected for each
3 office receiving the highest number of votes must be duly elected to the office. ~~A person~~An
4 individual who was entitled to have the ~~person's~~individual's name appear on the primary
5 election ballot, but whose name was not placed on the primary election ballot, may not be
6 elected to a no-party office as a write-in candidate unless ~~that person~~the individual receives a
7 number of votes equal to or more than the number of signatures ~~which that~~ would have been
8 required to have ~~that person's~~the individual's name placed on the primary election ballot.

9 **SECTION 105. AMENDMENT.** Section 16.1-15-43 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **16.1-15-43. When special election ordered.**

12 If a certificate of election cannot be issued for a judicial district office or a state office
13 because any two or more ~~persons~~individuals have equal and the highest number of votes, the
14 governor, by proclamation, shall order a new election.

15 **SECTION 106. AMENDMENT.** Section 16.1-15-45 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **16.1-15-45. Form of certificate of election for state officers - Signatures.**

18 A certificate of election must be prepared by the secretary of state for each ~~person~~individual
19 elected to a state or a district office. The certificate must be signed by the governor and the
20 secretary of state, have the great seal of the state affixed, and be attested by at least one of the
21 other members of the state canvassing board. The certificate, in substance, must be in the
22 following form:

23 At an election held on _____, ____, _____ was elected to the
24 office of _____ of this state for the term of _____ years from
25 _____, _____, (or, if to fill a vacancy, for the residue of the term ending on
26 _____, ____), and until a successor is duly elected and qualified.

27 Given at Bismarck on _____, ____.

28 ~~The certificate must be signed by the governor and the secretary of state, and must have the~~
29 ~~great seal of the state affixed, and must be attested by at least one of the other members of the~~
30 ~~state canvassing board.~~

1 **SECTION 107. AMENDMENT.** Section 16.1-15-47 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-15-47. Certificate of election to member of Congress - Signing - Delivering.**

4 The certificate of election to a member of Congress must be signed by the governor with
5 the great seal affixed and must be countersigned by the secretary of state. The governor shall
6 cause the certificate to be delivered to the ~~person~~individual elected.

7 **SECTION 108. AMENDMENT.** Section 16.1-16-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **16.1-16-01. Election recounts.**

10 A recount of any primary, special, or general election for nomination or election to a
11 presidential, congressional, state, judicial district, multicounty district, legislative, county, or city
12 office, or for the approval or disapproval of any measure, question, or bond issue submitted to
13 the qualified electors of this state or one of its political subdivisions must be conducted
14 according to guidelines established by the secretary of state and as follows:

- 15 1. A recount must be conducted when:
- 16 a. Any individual failed to be nominated by the individual's party or to a no-party
17 office in a primary election by one percent or less of the highest vote cast for a
18 candidate seeking nomination from the political party for the office sought or for a
19 candidate for the no-party office sought.
- 20 b. Any individual failed to be elected in a general or special election by one-half of
21 one percent or less of the highest vote cast for a candidate for that office.
- 22 c. A question, measure, or bond issue submitted to the qualified electors has been
23 decided by a margin not exceeding one-fourth of one percent of the total vote
24 cast for and against the question at any election.
- 25 2. A demand for a recount may be made by any of the following:
- 26 a. Any individual who failed to be nominated by the individual's party or to a
27 no-party office in a primary election by more than one percent and less than two
28 percent of the highest vote cast for a candidate seeking nomination from the
29 political party for the office sought or for a candidate for the no-party office
30 sought.

- 1 b. Any individual who failed to be elected in a general or special election by more
2 than one-half of one percent and less than two percent of the highest vote cast
3 for a candidate for that office.
- 4 3. A demand for a recount must be made within three days after the canvass of the votes
5 by the county canvassing board in the case of county elections and city elections that
6 are combined with the county and by the state canvassing board in the case of
7 presidential, congressional, state, judicial district, multicounty district, or legislative
8 elections. The demand must be in writing, must recite one of the conditions in
9 subsection 2 as a basis for the recount, must contain a bond in an amount previously
10 established by the auditor or auditors doing the recount sufficient to pay the cost of the
11 recount, and must be filed with:
- 12 a. The secretary of state when the recount is for a congressional, state, district, or
13 legislative office.
- 14 b. The county auditor when the recount is for a county office or city office when a
15 city election is combined with the county.
- 16 4. Within four days after the canvass of the votes by the state canvassing board in the
17 case of presidential, congressional, state, judicial district, multicounty district, or
18 legislative elections, the secretary of state shall notify all the county auditors to
19 conduct recounts as required by subsection 1 and, when a timely recount demand is
20 received and it is in proper form, as required by subsection 2. The secretary of state
21 shall fix the date or dates of the recounts of legislative contests to be held within seven
22 days after giving notice to the affected auditors that recounts must be conducted. The
23 secretary of state shall fix the date or dates of the recounts of statewide races to be
24 held within fourteen days after giving notice to the auditors that recounts must be
25 conducted. Within four days after the canvass of votes by the county canvassing
26 board or other political subdivision canvassing board, the county auditor or other
27 political subdivision election official shall fix the date for recounts limited to the county,
28 those cities within the county which combined the election with the county, or other
29 political subdivision. The date must be within eight days after the canvass. In all
30 recount proceedings, the county auditor or other election official, as appropriate, shall

1 send notice of the date, place, and time of the recount to all candidates and petitioners
2 involved by certified mail.

3 5. For recounts conducted by counties of federal, state, district, and county offices,
4 measures, and questions, the county auditor must conduct the recount and may
5 employ up to ten qualified electors of the county to assist in the recount. The county
6 auditor shall review all properly cast ballots and associated records. The county
7 auditor shall check the precinct count and the count of the county canvassing board. If
8 the county auditor is a candidate involved in the recount, the county auditor is
9 disqualified from acting thereon, and the county recorder shall perform the duties
10 required of the county auditor by this section. For recounts conducted by political
11 subdivisions other than counties of local offices, measures, and questions, the election
12 officer in a political subdivision shall administer a recount in the same manner as is
13 required under this subsection for counties with respect to political subdivision offices,
14 ballot measures, questions, or bond issues.

15 6. a. The individuals entitled to participate at the recount are:
16 (1) Each candidate involved in the recount, either personally or by a
17 representative.
18 (2) A qualified elector favoring each side of a question if the recount involves a
19 question or proposition submitted to a vote of the electorate.
20 b. The individuals allowed to participate may challenge the acceptance or exclusion
21 of any ballot. The individual challenging a ballot must state the reason for the
22 challenge based upon the law, and the county auditor or other political
23 subdivision election official shall count the challenged ballot as the auditor or
24 election official determines proper and then shall set the ballot aside with a
25 notation that it was challenged and how it was counted.

26 7. At the conclusion of the recount, the county auditor or other election official shall
27 submit all challenged ballots to the recount board for decision. Except for political
28 subdivision recounts other than counties, the recount board must be composed of the
29 state's attorney of the county, the chairman of the board of county commissioners, and
30 the county recorder. Unless otherwise specified by law, for a political subdivision other
31 than a county, the governing body of the political subdivision shall appoint the recount

1 board. An individual may not serve on the recount board if the individual has anything
2 of value bet or wagered on the result of the election, is a candidate for the office being
3 recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son,
4 daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage,
5 of the whole or the half-blood, of any candidate involved in the recount. If any of the
6 members of the recount board are disqualified or cannot serve for any other reason,
7 the members of the board of county commissioners or other political subdivision
8 governing body who would be qualified to serve on the board shall appoint
9 disinterested qualified electors of the county or other political subdivision to serve as
10 alternates. The recount board shall review all challenged ballots and on majority vote
11 shall decide how those ballots are counted. The decision of the recount board is final,
12 subject to the right to contest the election as provided in this chapter. If during the
13 recount a recess is called, the county auditor or other political subdivision election
14 official shall take appropriate steps to safeguard the ballots.

15 8. The county auditor or other election official shall certify the results of the recount
16 immediately after the recount. The recount result is the official result of the election in
17 the county or other political subdivision. The county auditor or other election official
18 shall prepare a corrected abstract of the votes. In a recount limited to the county, city,
19 or other political subdivision, if the corrected abstract shows no change in the outcome
20 of the election, no further action may be taken. If the corrected abstract changes the
21 outcome of the election, the county auditor or other election official shall issue
22 certificates of nomination or election accordingly and shall certify the new result of a
23 question submitted to the qualified electors. In the case of a city election that is
24 combined with a county election, the county auditor shall certify the new results of the
25 election to the city auditor who is responsible for issuing new certificates of election if
26 applicable.

27 9. In presidential, congressional, statewide, judicial district, multicounty district, or
28 legislative recounts, the county auditor, immediately after the recount, shall submit
29 electronically the corrected abstract to the secretary of state according to the
30 instructions provided by the secretary of state. The secretary of state immediately shall
31 assemble the state canvassing board, who shall canvass the corrected abstracts and

1 certify the election results. The secretary of state shall issue certificates of election or
2 nomination or record the approval or disapproval of a question submitted to the
3 qualified electors accordingly.

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

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

17 **SECTION 109. AMENDMENT.** Section 16.1-16-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **16.1-16-02. Who may contest election.**

20 A defeated candidate or ten qualified electors may contest the nomination or election of any
21 person or the approval or rejection of any question or proposition submitted to a vote of the
22 electorate, pursuant to ~~chapters 16.1-04, 16.1-05, 16.1-06, 16.1-07, 16.1-08.1, 16.1-09,~~
23 ~~16.1-10, and 16.1-11~~this title. In a county election to change the county seat or to change the
24 boundaries of the county, the complaint must be filed against the board of county
25 commissioners, ~~wh~~which shall appear and defend the contest action.

26 **SECTION 110. AMENDMENT.** Section 16.1-16-04 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-16-04. Time for commencement of action.**

29 ~~Any~~

30 1. ~~Except as provided in subsection 2, an~~ action to contest an election must be
31 commenced and the complaint must be filed in the district court of the contestee's

1 county of residence within five days after final certification of a recount by the
2 appropriate canvassing board or within fourteen days after the final certification by the
3 appropriate canvassing board if no recount is to be conducted. ~~However, if~~

4 2. If the grounds for the action are the illegal payment of money or other valuable thing
5 subsequent to the filing of any statement of expenses required by this title or if the
6 contestee does not or cannot meet the qualifications to hold the office as required by
7 law, the action may be commenced at any time. If the grounds for the action are the
8 failure of a contestee to satisfy the requirements for having the contestee's name
9 listed on the ballot as a candidate, the action may be commenced within thirty days of
10 the date the contestant knows or should know of the failure.

11 3. The contestee shall serve and file an answer within fourteen days after service of the
12 contest summons and complaint.

13 **SECTION 111. AMENDMENT.** Section 16.1-16-05 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **16.1-16-05. Grounds for election contest.**

16 An election contest may be commenced for any of the following causes:

- 17 1. ~~If the~~The contestee does not or cannot meet the qualifications to hold the office as
18 required by law.
- 19 2. ~~Because~~The existence of illegal votes or erroneous or fraudulent voting, count,
20 canvass, or recount of votes.
- 21 3. The contestee was listed as a candidate on the ballot despite failing to meet the
22 requirements to be listed on the ballot.

23 **SECTION 112. AMENDMENT.** Section 16.1-16-07 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **16.1-16-07. Contest involving irregularity of ballots - Preservation of ballots.**

26 Either the contestant or the contestee, within the time provided by this title for the
27 preservation of ballots, may give notice by certified mail to the county recorder of any county
28 where the contestant or the contestee desires the ballots preserved, that an election contest is
29 pending in a designated court. ~~Thereupon, it is the duty of~~After receipt of the notice, the county
30 recorder ~~to~~shall preserve all the ~~paper ballots and electronic voting system ballots and~~

1 associated records until the contest has been finally determined or the retention period
2 specified in section 16.1-15-13 has ended, whichever is later.

3 **SECTION 113.** A new section to chapter 54-09 of the North Dakota Century Code is created
4 and enacted as follows:

5 **Criminal history record check.**

6 The secretary of state may require any employee who has access to personally identifying
7 information of residents or businesses of the state, or access to election systems that are
8 critical infrastructure under section 44-04-24, to submit to a statewide and nationwide criminal
9 history record check. The criminal history record check must be conducted as provided by
10 section 12-60-24.

11 **SECTION 114. REPEAL.** Sections 16.1-06-10.1, 16.1-07-11, 16.1-07-13, and 16.1-13-24 of
12 the North Dakota Century Code are repealed.