

**HOUSE BILL NO. 1352**

Introduced by

Representatives N. Johnson, Disrud, Hawken

Senator Watne

1 A BILL for an Act to create and enact a new section to chapter 16.1-01 of the North Dakota  
2 Century Code, relating to recall petitions; and to amend and reenact sections 16.1-01-09 and  
3 44-08-21 of the North Dakota Century Code, relating to initiative and referendum petitions and  
4 recall petitions of political subdivision officials.

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

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

8 **Recall petitions - Signature - Form - Circulation.**

9 1. A person may not sign a recall petition circulated pursuant to article III of the  
10 Constitution of North Dakota unless the person is a qualified elector. A person  
11 may not sign a petition more than once, and each signer shall add the signer's  
12 complete mailing address and the date of signing. Every qualified elector signing a  
13 petition must do so in the presence of the person circulating the petition. A petition  
14 must be in substantially the following form:

15 RECALL PETITION

16 We, the undersigned, being qualified electors request that  
17 \_\_\_\_\_ (name of the person being  
18 recalled) the \_\_\_\_\_ (office of person being recalled) be  
19 recalled for the reason of \_\_\_\_\_.

20 RECALL SPONSORING COMMITTEE

21 The following are the names and addresses of the qualified electors of the  
22 state of North Dakota and the political subdivision who, as the sponsoring

1                   committee for the petitioners, represent and act for the petitioners in  
2                   accordance with law:

3	<u>Name</u>	<u>Address</u>
4	1. _____ (Chairman)	_____
5	2. _____	_____
6	3. _____	_____
7	4. _____	_____
8	5. _____	_____

9                   INSTRUCTIONS TO PETITION SIGNERS

10                   You are being asked to sign a petition. You must be a qualified elector. This  
11                   means you are eighteen years old, you have lived in North Dakota for thirty  
12                   days, and you are a United States citizen. All signers must add their complete  
13                   mailing address and date of signing. Every qualified elector signing a petition  
14                   must do so in the presence of the person circulating the petition.

15                   QUALIFIED ELECTORS

16	<u>Month,</u>	<u>Name of</u>	<u>Complete</u>	
17	<u>Day,</u>	<u>Qualified</u>	<u>Mailing</u>	<u>City,</u>
18	<u>Year</u>	<u>Elector</u>	<u>Address</u>	<u>State</u>
19	1. _____	_____	_____	_____
20	2. _____	_____	_____	_____
21	3. _____	_____	_____	_____
22	4. _____	_____	_____	_____
23	5. _____	_____	_____	_____
24	6. _____	_____	_____	_____
25	7. _____	_____	_____	_____
26	8. _____	_____	_____	_____

27                   The number of signature lines on each page of a printed petition may vary if  
28                   necessary to accommodate other required textual matter.

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



- 1 eighteen years of age at the time of signing. All petitions circulated under the  
2 authority of the constitution and of this section must be circulated in their entirety.
- 3 5. When recall petitions are delivered to the secretary of state or other filing officer  
4 with whom a petition for nomination to the office in question is filed, the chairman of  
5 the sponsoring committee shall submit to the secretary of state or other filing officer  
6 an affidavit stating that to the best of that person's knowledge, the petitions contain  
7 at least the required number of signatures.
- 8 6. The filing officer has a reasonable period, not to exceed thirty days, in which to  
9 pass upon the sufficiency of a recall petition. The filing officer may conduct a  
10 representative random sampling of the signatures contained in the petitions by the  
11 use of questionnaires, postcards, telephone calls, personal interviews, or other  
12 accepted information gathering techniques, or any combinations thereof, to  
13 determine the validity of the signatures. Signatures determined by the filing officer  
14 to be invalid may not be counted and all violations of law discovered by the filing  
15 officer must be reported to the state's attorney for possible prosecution.

16 **SECTION 2. AMENDMENT.** Section 16.1-01-09 of the 1999 Supplement to the North  
17 Dakota Century Code is amended and reenacted as follows:

18 **16.1-01-09. Initiative, or referendum, ~~or recall~~ petitions - Signature - Form -**  
19 **Circulation.**

- 20 1. a. A request of the secretary of state for approval of a petition to initiate or refer  
21 a measure may be presented over the signatures of the sponsoring  
22 committee on individual signature forms that have been notarized. The  
23 secretary of state shall prepare a signature form that includes provisions for  
24 identification of the measure; the printed name, signature, and address of the  
25 committee member; and notarization of the signature.
- 26 b. Upon receipt of a petition to initiate or refer a measure, the secretary of state  
27 shall draft a short and concise statement that fairly represents the measure.  
28 The statement must be submitted to the attorney general for approval or  
29 disapproval. An approved statement must be affixed to the petition before it is  
30 circulated for signatures, must be called the "ballot title", and must be placed  
31 immediately before the full text of the measure.

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

4 2. No person may sign any initiative, or referendum, ~~or recall~~ petition circulated  
5 pursuant to article III of the Constitution of North Dakota unless the person is a  
6 qualified elector. No person may sign any petition more than once, and each  
7 signer shall add the signer's post-office address including the signer's residential  
8 address or post-office box number and the date of signing. Every qualified elector  
9 signing a petition shall do so in the presence of the person circulating the petition.

10 A referendum or initiative petition must be in substantially the following form:

11 REFERENDUM [INITIATIVE] PETITION

12 TO THE SECRETARY OF STATE,

13 STATE OF NORTH DAKOTA

14 We, the undersigned, being qualified electors request [House (Senate) Bill  
15 \_\_\_\_\_ passed by the \_\_\_\_\_ Legislative Assembly] [the following  
16 initiated law] be placed on the ballot as provided by law.

17 SPONSORING COMMITTEE

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

21	Name	Address
22	_____ (Chairman)	_____
23	_____	_____

24 BALLOT TITLE

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

27 FULL TEXT OF THE MEASURE

28 IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING  
29 ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS  
30 BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR

1           OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH  
2           IS BEING ADDED.

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

4                           INSTRUCTIONS TO PETITION SIGNERS

5           You are being asked to sign a petition. You must be a qualified elector. This  
6           means you are eighteen years old, you have lived in North Dakota thirty days,  
7           and you are a United States citizen. All signers must add their entire  
8           post-office address, including post-office box number, and the date of signing.  
9           Every qualified elector signing a petition must do so in the presence of the  
10          person circulating the petition.

11                           QUALIFIED ELECTORS

12	Month,	Name of	Post-Office Address	
13	Day,	Qualified	Residential Address	City,
14	Year	Elector	or P.O. Box No.	State

- 15          1. \_\_\_\_\_
- 16          2. \_\_\_\_\_
- 17          3. \_\_\_\_\_
- 18          4. \_\_\_\_\_
- 19          5. \_\_\_\_\_
- 20          6. \_\_\_\_\_
- 21          7. \_\_\_\_\_
- 22          8. \_\_\_\_\_

23          The number of signature lines on each page of a printed petition may vary if  
24          necessary to accommodate other required textual matter. In this section for  
25          referral petitions "full text of the measure" means the bill as passed by the  
26          legislative assembly excluding the session and sponsor identification. In this  
27          section for initiative petitions "full text of the measure" means an enacting  
28          clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE  
29          OF NORTH DAKOTA" and the body of the bill. If the measure amends the  
30          law, all new statutory material must be underscored and all statutory material  
31          to be deleted must be overstruck by dashes. When repealing portions of the

1 law, the measure must contain a repealer clause and, in brackets, the text of  
2 the law being repealed.

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

5 State of North Dakota )  
6 ) ss.  
7 County of \_\_\_\_\_ )  
8 (county where signed)

9 I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I  
10 (circulator)  
11 reside at \_\_\_\_\_;  
12 (address)

13 that each signature contained on the attached petition was executed in my  
14 presence; and that to the best of my knowledge and belief each person whose  
15 signature appears on the attached petition is a qualified elector; and that each  
16 signature contained on the attached petition is the genuine signature of the  
17 person whose name it purports to be.

18 \_\_\_\_\_  
19 (signature of circulator)

20 Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_, at  
21 \_\_\_\_\_, North Dakota.  
22 (city)

23 (Notary Seal) \_\_\_\_\_  
24 (signature of notary)  
25 Notary Public  
26 My commission expires \_\_\_\_\_

27 4. ~~A petition for recall must include, before the signature lines for the qualified~~  
28 ~~electors as provided in subsection 2, the name of the person being recalled, the~~  
29 ~~office from which that person is being recalled, and a list of the names and~~  
30 ~~post office addresses including the residential addresses or post office box~~

1 ~~numbers of not less than five qualified electors of the state, political subdivision, or~~  
2 ~~district in which the official is to be recalled who are sponsoring the recall.~~

3 5. No petition shall be circulated under the authority of article III of the Constitution of  
4 North Dakota by a person who is less than eighteen years of age, nor shall the  
5 affidavit called for by subsection 3 be executed by a person who is less than  
6 eighteen years of age at the time of signing. All petitions circulated under the  
7 authority of the constitution and of this section must be circulated in their entirety.  
8 A petition may not include a statement of intent or similar explanatory information.

9 6. 5. When signed petitions are delivered to the secretary of state, the chairperson of  
10 the sponsoring committee shall submit to the secretary of state an affidavit stating  
11 that to the best of that person's knowledge, the petitions contain at least the  
12 required number of signatures.

13 7. 6. An initiative or referendum petition may be submitted to the secretary of state until  
14 midnight of the day designated as the deadline for submitting the petition.

15 **SECTION 3. AMENDMENT.** Section 44-08-21 of the 1999 Supplement to the North  
16 Dakota Century Code is amended and reenacted as follows:

17 **44-08-21. Recall of elected officials of political subdivisions.** An elected official of  
18 a political subdivision, except an official subject to recall pursuant to section 10 of article III of  
19 the Constitution of North Dakota, is subject to recall by petition of electors equal in number to  
20 twenty-five percent of the voters who voted in the most recent election that the ~~office of the~~  
21 ~~official sought to be recalled was on the ballot, not including other recall elections, except in any~~  
22 ~~political subdivision with a population of not more than one hundred, the petition must be signed~~  
23 ~~by at least six electors.~~ An official who was appointed to fill a vacancy is subject to recall by  
24 petition of electors equal in number to twenty-five percent of the voters who voted in the most  
25 recent election that the office of the official sought to be recalled was on the ballot, not including  
26 other recall elections. The provisions of section ~~46-1-04-09~~ 1 of this Act, as they relate to  
27 signing and circulating recall petitions, apply to petitions under this section.

28 A recall petition must include a stated reason for the recall and be approved as to form  
29 prior to circulation by the secretary of state. The secretary of state shall complete the review of  
30 the form of a recall petition in not less than five, nor more than seven, business days, excluding



1 Saturdays. A recall petition may be circulated for one year from the date it is approved for  
2 circulation by the secretary of state.

3 ~~The petition may include the stated reason for the recall and~~ Once circulated, the recall  
4 petition must be filed with the ~~official~~ filing officer with whom a petition for nomination to the  
5 office in question is filed unless that ~~official~~ filing officer is the person subject to recall, in which  
6 case the petition must be filed with the secretary of state. The ~~official~~ filing officer with whom  
7 the petition is filed shall pass on the sufficiency of a petition ~~under this section in the manner~~  
8 ~~required of the secretary of state under section 16.1-01-10~~ pursuant to section 1 of this Act.  
9 Except as otherwise provided in this section, the ~~official~~ filing officer shall call a special election  
10 to be held ~~within sixty days if the official finds~~ on the ninth Tuesday following the date the filing  
11 officer certifies the petition valid and sufficient. No special election may be called if ~~the~~ that  
12 date would be within ninety days of the next scheduled election. An elector's name may not be  
13 removed from a recall petition.

14 The name of the official to be recalled must be placed on the ballot unless the official  
15 resigns within ten days after the ~~filing of the petition~~ filing officer certifies the petition is valid and  
16 sufficient. Other candidates for the office may be nominated in a manner provided by law and  
17 shall file nominating papers with the appropriate ~~official~~ filing officer by the thirty-third day  
18 before the scheduled recall election. If the official resigns, the appropriate political subdivision  
19 governing body may call a special election or appoint a person to complete the unexpired term  
20 of the office. When the election results have been officially declared, the candidate receiving  
21 the highest number of votes is elected for the remainder of the term. No official is subject to  
22 recall twice during the term for which the official was elected. An official whose term expires at  
23 a regularly scheduled election occurring within one hundred ninety days after the date the  
24 petition is submitted to the secretary of state for approval for circulation is not subject to recall.