

FIRST ENGROSSMENT
with Senate Amendments

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED 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 or section 44-08-21 unless the person is a qualified
11 elector. A person may not sign a petition more than once, and each signer shall
12 add the signer's complete residential, rural route, or general delivery address and
13 the date of signing. Every qualified elector signing a petition must do so in the
14 presence of the person circulating the petition. A petition must be in substantially
15 the following form:

16 RECALL PETITION

17 We, the undersigned, being qualified electors request that
18 _____ (name of the person being
19 recalled) the _____ (office of person being recalled) be
20 recalled for the reason or reasons of _____ .

21 RECALL SPONSORING COMMITTEE

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

- 1 4. A petition may not be circulated under the authority of article III of the Constitution
2 of North Dakota or section 44-08-21 by a person who is less than eighteen years
3 of age, nor may the affidavit called for by subsection 2 be executed by a person
4 who is less than eighteen years of age at the time of signing. All petitions
5 circulated under the authority of the constitution and of this section must be
6 circulated in their entirety.
- 7 5. When recall petitions are delivered to the secretary of state or other filing officer
8 with whom a petition for nomination to the office in question is filed, the chairman
9 of the sponsoring committee shall submit to the secretary of state or other filing
10 officer an affidavit stating that to the best of that person's knowledge, the petitions
11 contain at least the required number of signatures.
- 12 6. The filing officer has a reasonable period, not to exceed thirty days, in which to
13 pass upon the sufficiency of a recall petition. The filing officer may conduct a
14 representative random sampling of the signatures contained in the petitions by the
15 use of questionnaires, postcards, telephone calls, personal interviews, or other
16 accepted information gathering techniques, or any combinations thereof, to
17 determine the validity of the signatures. Signatures determined by the filing officer
18 to be invalid may not be counted and all violations of law discovered by the filing
19 officer must be reported to the state's attorney for possible prosecution.

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

22 **16.1-01-09. Initiative, or referendum, ~~or recall~~ petitions - Signature - Form -**
23 **Circulation.**

- 24 1. a. A request of the secretary of state for approval of a petition to initiate or refer
25 a measure may be presented over the signatures of the sponsoring
26 committee on individual signature forms that have been notarized. The
27 secretary of state shall prepare a signature form that includes provisions for
28 identification of the measure; the printed name, signature, and address of the
29 committee member; and notarization of the signature.
- 30 b. Upon receipt of a petition to initiate or refer a measure, the secretary of state
31 shall draft a short and concise statement that fairly represents the measure.

1 IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING
2 ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS
3 BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR
4 OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH
5 IS BEING ADDED.

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

7 INSTRUCTIONS TO PETITION SIGNERS

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

14 QUALIFIED ELECTORS

15	Month,	Name of	Post-Office Address	
16	Day,	Qualified	Residential Address	City,
17	Year	Elector	or P.O. Box No.	State
18	1.	_____		
19	2.	_____		
20	3.	_____		
21	4.	_____		
22	5.	_____		
23	6.	_____		
24	7.	_____		
25	8.	_____		

26 The number of signature lines on each page of a printed petition may vary if
27 necessary to accommodate other required textual matter. In this section for
28 referral petitions "full text of the measure" means the bill as passed by the
29 legislative assembly excluding the session and sponsor identification. In this
30 section for initiative petitions "full text of the measure" means an enacting
31 clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE

1 OF NORTH DAKOTA" and the body of the bill. If the measure amends the
2 law, all new statutory material must be underscored and all statutory material
3 to be deleted must be overstruck by dashes. When repealing portions of the
4 law, the measure must contain a repealer clause and, in brackets, the text of
5 the law being repealed.

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

8 State of North Dakota)
9) ss.
10 County of _____)
11 (county where signed)

12 I, _____, being sworn, say that I am a qualified elector; that I
13 (circulator)
14 reside at _____;
15 (address)

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

21 _____
22 (signature of circulator)

23 Subscribed and sworn to before me on _____, _____, at
24 _____, North Dakota.
25 (city)

26 (Notary Seal) _____
27 (signature of notary)

28 Notary Public

29 My commission expires _____

- 30 4. ~~A petition for recall must include, before the signature lines for the qualified~~
31 ~~electors as provided in subsection 2, the name of the person being recalled, the~~

1 ~~office from which that person is being recalled, and a list of the names and~~
2 ~~post office addresses including the residential addresses or post office box~~
3 ~~numbers of not less than five qualified electors of the state, political subdivision, or~~
4 ~~district in which the official is to be recalled who are sponsoring the recall.~~

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

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

15 7. 6. An initiative or referendum petition may be submitted to the secretary of state until
16 midnight of the day designated as the deadline for submitting the petition.

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

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

30 A recall petition must include a stated reason for the recall and be approved as to form
31 prior to circulation by the secretary of state. The secretary of state shall complete the review of

1 the form of a recall petition in not less than five, nor more than seven, business days, excluding
2 Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer
3 within ninety days after the date the recall petition is approved for circulation by the secretary of
4 state.

5 ~~The petition may include the stated reason for the recall and~~ Once circulated, the recall
6 petition must be filed with the official filing officer with whom a petition for nomination to the
7 office in question is filed unless that official filing officer is the person subject to recall, in which
8 case the petition must be filed with the secretary of state. The official filing officer with whom
9 the petition is filed shall pass on the sufficiency of a petition under this section in the manner
10 required of the secretary of state under section 16.1-01-10 pursuant to section 1 of this Act.

11 Except as otherwise provided in this section, the official filing officer shall call a special election
12 to be held ~~within sixty days if the official finds~~ not sooner than fifty days nor later than sixty days
13 following the date the filing officer certifies the petition valid and sufficient. No special election
14 may be called if the that date would be within ninety days of the next scheduled election. An
15 elector's name may not be removed from a recall petition.

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