

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1352  
(Representatives N. Johnson, Disrud, Hawken)  
(Senator Watne)

AN ACT to create and enact a new section to chapter 16.1-01 of the North Dakota Century Code, relating to recall petitions; and to amend and reenact sections 16.1-01-09 and 44-08-21 of the North Dakota Century Code, relating to initiative and referendum petitions and recall petitions of political subdivision officials.

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

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

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

1. A person may not sign a recall petition circulated pursuant to article III of the Constitution of North Dakota or section 44-08-21 unless the person is a qualified elector. A person may not sign a petition more than once, and each signer shall add the signer's complete residential, rural route, or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition. A petition must be in substantially the following form:

RECALL PETITION

We, the undersigned, being qualified electors request that \_\_\_\_\_ (name of the person being recalled) the \_\_\_\_\_ (office of person being recalled) be recalled for the reason or reasons of \_\_\_\_\_.

RECALL SPONSORING COMMITTEE

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

	<u>Name</u>	<u>Complete Residential, Rural Route, or General Delivery Address</u>
1.	_____ (Chairman)	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

INSTRUCTIONS TO PETITION SIGNERS

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

QUALIFIED ELECTORS

	<u>Month, Day, Year</u>	<u>Name of Qualified Elector</u>	<u>Complete Residential, Rural Route, or General Delivery Address</u>	<u>City, State</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____

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

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

State of North Dakota )  
 ) ss.  
 County of \_\_\_\_\_ )  
 (county where signed)

I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I  
 (circulator's name)  
 reside at \_\_\_\_\_;  
 (address)

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

\_\_\_\_\_  
 (signature of circulator)

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

(Notary Seal) \_\_\_\_\_  
 (signature of notary)  
 Notary Public  
 My commission expires \_\_\_\_\_

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

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

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

1. a. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure; the printed name, signature, and address of the committee member; and notarization of the signature.
  - b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval. An approved statement must be affixed to the petition before it is circulated for signatures, must be called the "ballot title", and must be placed immediately before the full text of the measure.
  - c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. No person may sign any initiative; or referendum, ~~or recall~~ petition circulated pursuant to article III of the Constitution of North Dakota unless the person is a qualified elector. No person may sign any petition more than once, and each signer shall add the signer's post-office address including the signer's residential address or post-office box number and the date of signing. Every qualified elector signing a petition shall do so in the presence of the person circulating the petition. A referendum or initiative petition must be in substantially the following form:

REFERENDUM [INITIATIVE] PETITION  
TO THE SECRETARY OF STATE,  
STATE OF NORTH DAKOTA

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

SPONSORING COMMITTEE

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

Name	Address
_____ (Chairman)	_____
_____	_____

BALLOT TITLE

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

FULL TEXT OF THE MEASURE

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

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

INSTRUCTIONS TO PETITION SIGNERS

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

QUALIFIED ELECTORS

	Month, Day, Year	Name of Qualified Elector	Post-Office Address Residential Address or P.O. Box No.	City, State
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

- 7. \_\_\_\_\_
- 8. \_\_\_\_\_

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

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

State of North Dakota )  
 ) ss.  
 County of \_\_\_\_\_ )  
 (county where signed)  
 I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I  
 (circulator)  
 reside at \_\_\_\_\_;  
 (address)

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

\_\_\_\_\_  
 (signature of circulator)

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

(Notary Seal) \_\_\_\_\_  
 (signature of notary)  
 Notary Public  
 My commission expires \_\_\_\_\_

- 4. ~~A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the person being recalled, the office from which that person is being recalled, and a list of the names and post office addresses including the residential addresses or post office box numbers of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.~~
- 5. No petition shall be circulated under the authority of article III of the Constitution of North Dakota by a person who is less than eighteen years of age, nor shall the affidavit called for by subsection 3 be executed by a person who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety. A petition may not include a statement of intent or similar explanatory information.

- 6- 5. When signed petitions are delivered to the secretary of state, the chairperson of the sponsoring committee shall submit to the secretary of state an affidavit stating that to the best of that person's knowledge, the petitions contain at least the required number of signatures.
- 7- 6. An initiative or referendum petition may be submitted to the secretary of state until midnight of the day designated as the deadline for submitting the petition.

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

**44-08-21. Recall of elected officials of political subdivisions.** An elected official of a political subdivision, except an official subject to recall pursuant to section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections, ~~except in any political subdivision with a population of not more than one hundred, the petition must be signed by at least six electors.~~ An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section ~~46.1-01-09 1~~ of this Act, as they relate to signing and circulating recall petitions, apply to petitions under this section.

A recall petition must include a stated reason for the recall and be approved as to form prior to circulation by the secretary of state. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.

~~The petition may include the stated reason for the recall and~~ Once circulated, the recall petition must be filed with the official filing officer with whom a petition for nomination to the office in question is filed unless that official filing officer is the person subject to recall, in which case the petition must be filed with the secretary of state. The official filing officer with whom the petition is filed shall pass on the sufficiency of a petition under this section in the manner required of the secretary of state under section ~~46.1-01-10~~ pursuant to section 1 of this Act. Except as otherwise provided in this section, the official filing officer shall call a special election to be held ~~within sixty days if the official finds~~ not sooner than fifty days nor later than sixty days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if ~~the~~ that date would be within ninety days of the next scheduled election. An elector's name may not be removed from a recall petition.

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

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

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

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

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

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1352.

House Vote:      Yeas    92      Nays    0      Absent    6

Senate Vote:    Yeas    41      Nays    6      Absent    2

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

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2001,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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