

Sixty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2307

Introduced by

Senators Meyer, K. Roers

Representatives Beadle, Grueneich, C. Johnson, Sanford

1 A BILL for an Act to create and enact a new section to chapter 16.1-02 of the North Dakota  
2 Century Code, relating to use of voter lists; and to amend and reenact sections 16.1-01-03,  
3 16.1-02-12, and 16.1-16-01 of the North Dakota Century Code, relating to hours of polling  
4 places, information in the central voter file, and election recounts.

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

6 **SECTION 1. AMENDMENT.** Section 16.1-01-03 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **16.1-01-03. Opening and closing of the polls.**

9 The polls at all primary, general, and special elections must be opened at nine a.m. or at  
10 ~~such earlier hour~~, but not earlier than seven a.m., ~~that may be~~ designated for any precinct by  
11 resolution of the governing body of the city or county in which ~~such~~the precinct is located ~~except~~  
12 ~~that in precincts in which seventy-five or fewer votes were cast in the last general election, the~~  
13 ~~governing body may direct that the polls be opened at twelve noon. They~~The polls must remain  
14 open continuously until seven p.m. or such later hour, not later than nine p.m., as may be  
15 designated for a precinct by resolution of the governing body of the city or county in which the  
16 precinct is located. All electors standing in line to vote at the time the polls are set to close must  
17 be allowed to vote, but electors arriving after closing time may not be allowed to vote. The  
18 election officers present are responsible for determining who arrived in time to vote, and ~~they~~the  
19 election officers shall establish appropriate procedures for making that determination. All  
20 determinations required to be made pursuant to this section relating to polling hours must be  
21 made, and the county auditor notified of them, no later than thirty days prior to an election.

22 **SECTION 2. AMENDMENT.** Section 16.1-02-12 of the North Dakota Century Code is  
23 amended and reenacted as follows:

1       **16.1-02-12. Information contained and maintained in the central voter file.**

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

- 4       1. The complete legal name of the individual.
- 5       2. The complete residential address of the individual.
- 6       3. The complete mailing address of the individual, if different from the individual's  
7 residential address.
- 8       4. The unique identifier generated and assigned to the individual.
- 9       5. A status designation ~~showing whether~~ of the individual's ability/eligibility to vote in a  
10 precinct has been inactivated as a result of death or because the individual is no  
11 longer a resident of the precinct according to section 16.1-01-04.
- 12       6. The county, legislative district, city or township, school district, county commissioner  
13 district, if applicable, precinct name, and precinct number in which the individual  
14 resides.
- 15       7. Beginning in 2008, four years of an individual's voting history, if applicable.
- 16       8. Date of birth.
- 17       9. The individual's driver's license or nondriver identification card number issued by the  
18 department of transportation, or the unique identifier from an official form of  
19 identification issued by a tribal government to a tribal member residing in this state.
- 20       10. Any other information requested of and obtained from the individual deemed  
21 necessary by the secretary of state for the proper administration of the central voter  
22 file.

23       **SECTION 3.** A new section to chapter 16.1-02 of the North Dakota Century Code is created  
24 and enacted as follows:

25       **Voter lists and reports - Availability for voter list maintenance.**

26       The secretary of state may generate a voter list or a report generated from the central voter  
27 file to be transmitted to other states, or a consortium of states, for maintaining the integrity of  
28 elections.

29       **SECTION 4. AMENDMENT.** Section 16.1-16-01 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **16.1-16-01. Election recounts.**

2       A recount of any primary, special, or general election for nomination or election to a  
3 congressional, state, district, legislative, county, or city office, or for the approval or disapproval  
4 of any measure, question, or bond issue submitted to the qualified electors of this state or one  
5 of its political subdivisions must be conducted according to guidelines established by the  
6 secretary of state and as follows:

7       1. A recount must be conducted when:

8           a. Any individual failed to be nominated by the individual's party or to a no-party  
9           office in a primary election by one percent or less of the highest vote cast for a  
10           candidate seeking nomination from the political party for the office sought or for a  
11           candidate for the no-party office sought.

12           b. Any individual failed to be elected in a general or special election by one-half of  
13           one percent or less of the highest vote cast for a candidate for that office.

14           c. A question, measure, or bond issue submitted to the qualified electors has been  
15           decided by a margin not exceeding one-fourth of one percent of the total vote  
16           cast for and against the question at any election.

17       2. A demand for a recount may be made by any of the following:

18           a. Any individual who failed to be nominated by the individual's party or to a  
19           no-party office in a primary election by more than one percent and less than two  
20           percent of the highest vote cast for a candidate seeking nomination from the  
21           political party for the office sought or for a candidate for the no-party office  
22           sought.

23           b. Any individual who failed to be elected in a general or special election by more  
24           than one-half of one percent and less than two percent of the highest vote cast  
25           for a candidate for that office.

26       3. A demand for a recount must be made within three days after the canvass of the votes  
27       by the county canvassing board in the case of county elections and city elections that  
28       are combined with the county and by the state canvassing board in the case of  
29       presidential, congressional, state, judicial district, multicounty district, or legislative  
30       elections. The demand must be in writing, must recite one of the conditions in  
31       subsection 2 as a basis for the recount, must contain a bond in an amount previously

1 established by the auditor or auditors doing the recount sufficient to pay the cost of the  
2 recount, and must be filed with:

3 a. The secretary of state when the recount is for a congressional, state, district, or  
4 legislative office.

5 b. The county auditor when the recount is for a county office or city office when a  
6 city election is combined with the county.

7 4. Within four days after the canvass of the votes by the state canvassing board in the  
8 case of presidential, congressional, state, judicial district, multicounty district, or  
9 legislative elections, the secretary of state shall notify all the county auditors to  
10 conduct recounts as required by subsection 1 and, when a timely recount demand is  
11 received and it is in proper form, as required by subsection 2. The secretary of state  
12 shall fix the date or dates of the recounts of legislative contests to be held within seven  
13 days after giving notice to the affected auditors that recounts must be conducted. The  
14 secretary of state shall fix the date or dates of the recounts of statewide races to be  
15 held within fourteen days after giving notice to the auditors that recounts must be  
16 conducted. Within four days after the canvass of votes by the county canvassing  
17 board or other political subdivision canvassing board, the county auditor or other  
18 political subdivision election official shall fix the date for recounts limited to the county,  
19 those cities within the county which combined the election with the county, or other  
20 political subdivision. The date must be within eight days after the canvass. In all  
21 recount proceedings, the county auditor or other election official, as appropriate, shall  
22 send notice of the date, place, and time of the recount to all candidates and petitioners  
23 involved by certified mail.

24 5. For recounts conducted by counties of federal, state, district, and county offices,  
25 measures, and questions, the county auditor must conduct the recount and may  
26 employ up to ~~fourteen~~ qualified electors of the county to assist in the recount. The  
27 county auditor shall review all ~~paper and electronic voting system~~ properly cast ballots  
28 and associated records, ~~whether the ballots were counted at the precinct or the county~~  
29 ~~canvass, and all absentee ballots cast pursuant to section 16.1-07-09 to determine~~  
30 ~~which ballots were cast and counted according to the law, including that the ballots~~  
31 ~~were properly initialed and that the initials found on the ballots are verified as those of~~

1           the precinct election board members. The county auditor shall check the precinct  
2           count and the count of the county canvassing board. If the county auditor is a  
3           candidate involved in the recount, the county auditor is disqualified from acting  
4           thereon, and the county recorder shall perform the duties required of the county  
5           auditor by this section. For recounts conducted by political subdivisions other than  
6           counties of local offices, measures, and questions, the election officer in a political  
7           subdivision shall administer a recount in the same manner as is required under this  
8           subsection for counties with respect to political subdivision offices, ballot measures,  
9           questions, or bond issues.

- 10       6.    a.    The individuals entitled to participate at the recount are:
- 11               (1)   Each candidate involved in the recount, either personally or by a  
12               representative.
- 13               (2)   A qualified elector favoring each side of a question if the recount involves a  
14               question or proposition submitted to a vote of the electorate.
- 15       b.    The individuals allowed to participate may challenge the acceptance or exclusion  
16           of any ballot. The individual challenging a ballot must state the reason for the  
17           challenge based upon the law, and the county auditor or other political  
18           subdivision election official shall count the challenged ballot as the auditor or  
19           election official determines proper and then shall set the ballot aside with a  
20           notation that it was challenged and how it was counted.
- 21       7.    At the conclusion of the recount, the county auditor or other election official shall  
22           submit all challenged ballots to the recount board for decision. Except for political  
23           subdivision recounts other than counties, the recount board must be composed of the  
24           state's attorney of the county, the chairman of the board of county commissioners, and  
25           the county recorder. Unless otherwise specified by law, for a political subdivision other  
26           than a county, the governing body of the political subdivision shall appoint the recount  
27           board. An individual may not serve on the recount board if the individual has anything  
28           of value bet or wagered on the result of the election, is a candidate for the office being  
29           recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son,  
30           daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage,  
31           of the whole or the half-blood, of any candidate involved in the recount. If any of the

1 members of the recount board are disqualified or cannot serve for any other reason,  
2 the members of the board of county commissioners or other political subdivision  
3 governing body who would be qualified to serve on the board shall appoint  
4 disinterested qualified electors of the county or other political subdivision to serve as  
5 alternates. The recount board shall review all challenged ballots and on majority vote  
6 shall decide how those ballots are counted. ~~The recount board is authorized to initial~~  
7 ~~all absentee ballots cast under section 16.1-07-09 that were not considered or counted~~  
8 ~~at the various precincts in the county for the reasons provided in sections 16.1-07-11~~  
9 ~~and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19.~~  
10 The decision of the recount board is final, subject to the right to contest the election as  
11 provided in this chapter. If during the recount a recess is called, the county auditor or  
12 other political subdivision election official shall take appropriate steps to safeguard the  
13 ballots.

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

26 9. In presidential, congressional, statewide, judicial district, multicounty district, or  
27 legislative recounts, the county auditor, ~~no later than three days~~immediately after the  
28 recount, shall ~~send by certified mail a certified copy of~~submit electronically the  
29 corrected abstract to the secretary of state according to the instructions provided by  
30 the secretary of state. The secretary of state immediately shall assemble the state  
31 canvassing board, who shall canvass the corrected abstracts and certify the election

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