

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1377  
(Representatives Grande, Haas, Heller, Kasper)  
(Senator Dever)

AN ACT to amend and reenact sections 16.1-15-06 and 16.1-15-08, subsection 6 of section 16.1-15-09, and sections 16.1-15-13, 16.1-15-15, 16.1-15-19, 16.1-15-22, 16.1-15-25, and 16.1-15-26 of the North Dakota Century Code, relating to canvassing elections.

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

**SECTION 1. AMENDMENT.** Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-06. Reports and pollbooks sent to county auditor - Compensation for making returns.** Immediately following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver one of the signed canvass reports provided for in section 16.1-15-04 to the county auditor. The reports, carefully sealed under cover, accompanied by ~~both of the pollbooks~~ pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official.

**SECTION 2. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-08. Wrapping and returning of ballots to ~~clerk of the district court~~ county recorder.** After generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the ~~secretary of state~~ county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the ~~clerk of the district court~~ county recorder. At the meeting of the county canvassing board, the ~~clerk of the district court~~ county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county. At the meeting of the county canvassing board, the ~~clerk of the district court~~ county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

**SECTION 3. AMENDMENT.** Subsection 6 of section 16.1-15-09 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 4. AMENDMENT.** Section 16.1-15-13 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-13. ~~District judge or clerk of district court~~ County recorder to keep ballots - Exception - Use of ballots as evidence.** Immediately upon receiving the ballots as provided in section 16.1-15-08, the ~~district judge or the clerk of district court~~ county recorder shall give a receipt to the election judges and shall place the ballots properly arranged in the order of the precinct number in boxes that shall be securely locked. The boxes must be placed in a fireproof vault and must be kept securely for forty-five days if the ballots do not contain federal offices and twenty-two months if the ballots contain federal offices. With the exception of the ballots containing lawful write-in votes that may be counted at the meeting of the county canvassing board, the ballots may not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. Either forty-five days or twenty-two months after the election dependent upon the retention schedule outlined in this section, upon determination by the ~~district judge or the clerk of district court~~ county recorder that no contest is pending, the ballots must be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of such time, the ballots may not be destroyed until the contest or prosecution is finally determined. The ballots returned to the ~~district judge or clerk of district court~~ county recorder as provided in this section must be received in evidence without introducing further foundation.

**SECTION 5. AMENDMENT.** Section 16.1-15-15 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-15. County canvassing board - Composition.** The county canvassing board must be composed of the ~~clerk of the district court~~ county recorder, county auditor, chairman of the board of county commissioners, and a representative of each of the two political parties that received the highest number of votes cast for governor at the most recent general election at which a governor was elected. The district chairmen of the political parties from each legislative district within the county shall appoint the respective political party representative. The county canvassing board must be comprised of at least five members, and both political parties must be represented. Each political party from each legislative district within a county may request representation on the canvassing board if there is equal representation from each of the political parties. For any special county election when the county is composed of more than one legislative district and the election does not involve any legislative or statewide office, the county canvassing board must be composed of the ~~clerk of the district court~~ county recorder, county auditor, chairman of the board of county commissioners, and one representative as appointed by the state chairman for each of the two political parties that received the highest number of votes cast for governor at the most recent general election at which a governor was elected.

**SECTION 6. AMENDMENT.** Section 16.1-15-19 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-19. County canvassing board to disregard technicalities, misspelling, and abbreviations - Write-in votes canvassed - Votes from unestablished precincts disregarded.** In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the name of any candidate for office if it can be ascertained for whom the vote was intended. Pursuant to section 16.1-12-02.2, the board shall canvass all qualifying write-in votes. The board may not count votes polled in any place except at

established precincts. The county canvassing board is authorized to initial all absentee ballots cast pursuant to section 16.1-07-09 that were not considered or counted ~~or by election boards and to make a final determination of eligibility for all ballots which~~ were rejected at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12.

**SECTION 7. AMENDMENT.** Section 16.1-15-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election.** The county auditor of each county, ~~under the auditor's official seal,~~ shall ~~return~~ provide to the secretary of state ~~by registered or certified mail within ten days after the day of any primary election,~~ a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in the auditor's county and the votes cast for every candidate for nomination according to reporting instructions specified by the secretary of state. The abstract must also include the total number of votes cast for initiated or referred measures and constitutional amendments. The certified abstract ~~to be mailed under this section~~ must be in the possession of the secretary of state before four p.m. on the tenth day after the primary election.

**SECTION 8. AMENDMENT.** Section 16.1-15-25 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-25. County auditor to forward abstract of votes of general election to secretary of state - Contents - Abstract for presidential electors.** Within ten days and before four p.m. on the tenth day following any general election, the county auditor of each county, ~~under official seal,~~ shall ~~return~~ provide to the secretary of state a certified abstract of the votes cast in the county at the election according to the reporting instructions specified by the secretary of state. ~~All certified abstract of votes must be transmitted by registered or certified mail to the secretary of state.~~

**SECTION 9. AMENDMENT.** Section 16.1-15-26 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-26. Memorandum of date of receiving returns in secretary of state's office.** A memorandum of the date of reception of all returns of votes in the secretary of state's office must be made ~~on the envelope containing the returns~~ to each county auditor.

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Speaker of the House

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President of the Senate

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

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1377.

House Vote:      Yeas    65      Nays    26      Absent    3

Senate Vote:    Yeas    38      Nays    9      Absent    0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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