

2017-2019

**INITIATING AND REFERRING LAW
IN NORTH DAKOTA**

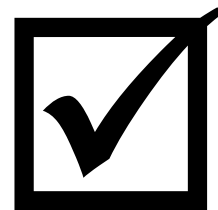
North Dakota



**✓ votes
2018**



SECRETARY OF STATE
Alvin A Jaeger
State of North Dakota
600 E Boulevard Ave Dept 108
Bismarck ND 58505-0500
ELECTIONS UNIT
(701) 328-4146
soselect@nd.gov
Vote.ND.Gov



Alternate formats for persons with disabilities are available upon request.

FOREWARD

This pamphlet is a compilation of laws found in the North Dakota Century Code relating to the initiative and referral process in the state of North Dakota. It is intended to be a reference source for measure committees, the public, media, and others with an interest in the initiative and referral process. If you have questions regarding this pamphlet, please contact the Elections Unit of the Secretary of State's office by calling 701-328-4146, sending an email to soselect@nd.gov, or writing to Secretary of State, Elections Unit, 600 E Boulevard Avenue Dept 108, Bismarck ND 58505-0500.

DISCLAIMER

The following excerpts of North Dakota law are from the North Dakota Century Code (NDCC) and pertain to elections, election procedures, and the initiative and referral process. Although every attempt has been made for accuracy, the reprint of these laws does not carry the same authority as the actual NDCC and should not be equated with the official NDCC. This compilation is only intended as a helpful resource and reference for consolidated election related laws. For official and legal purposes, the official NDCC should be used.

In addition, the following excerpts of North Dakota law do not contain the material found in the legal notes following the various sections contained in the NDCC. These notes found in the NDCC may contain temporary provisions and effective dates along with the valuable summaries of applicable court rulings.

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INTRODUCTION

Article III of the North Dakota Constitution guarantees the right of the people to initiate or refer laws by petition. This pamphlet is designed to acquaint you with the laws and procedures associated with the petition process. It will serve as a useful resource for answering questions about how a law is initiated or referred.

TERMINOLOGY

PETITION: Refers to the document containing the proposed change to the state's constitution or law and upon which signatures in support of the proposed change are gathered.

MEASURE: After a "petition" to initiate or refer a "measure" has qualified for placement on the ballot, it is then referred to as a "measure."

Note: The terms "petition" and "measure" are sometimes used interchangeably; thus, you will hear terms like "initiated measure" and "initiated petition" or "referral petition" and "referred measure."

Petitions are used for the following:

STATUTORY INITIATIVE: To amend or enact a law in the North Dakota Century Code (NDCC) by a vote of the people rather than through legislative action.

CONSTITUTIONAL INITIATIVE: To amend or enact new portions of the North Dakota Constitution by a vote of the people.

REFERENDUM: To reject legislation passed by the Legislative Assembly by a vote of the people.

GETTING STARTED

REVIEW THE LAWS – North Dakota Constitution and the North Dakota Century Code: You will find it helpful to familiarize yourself with the main sections of law that apply to referendum and initiative petitions. Article III, sections one through nine, of the North Dakota Constitution, and sections 16.1-01-01(2)(e), 16.1-01-09, 16.1-01-10, 16.1-01-11, and 16.1-06-09 of the NDCC address procedures for the initiative and referral process and are reproduced on pages 12-17.

DRAFTING THE PETITION: A referendum or initiative petition must be drafted in the manner prescribed by law. NDCC § 16.1-01-09 details the requirements for the petition (see pages 13-15) and from this, the Secretary of State has developed a [Petition Drafting Tool](#) that is to be used for this process. A [Sample Initiative Petition](#) and [Sample Referendum Petition](#) are available on the Secretary of State's Elections website (Vote.ND.Gov) in the Ballot Measures Portal under How to Place a Measure on the Ballot.

SPONSORING COMMITTEE: Twenty-five or more qualified North Dakota voters must agree to act as the sponsoring committee for the petition. The names and addresses of the sponsoring committee members must appear on the front page of the petition. One sponsoring committee member must be designated as committee chairperson.

A qualified North Dakota voter is one who is:

- A U.S. Citizen;
- A resident of this state;
- A resident of the precinct at least 30 days preceding the election; and
- At least 18 years or older.

SPONSORING COMMITTEE AFFIDAVITS: All sponsoring committee members must complete and sign an affidavit, also known as a Signature Form (see page 18) stating that the member is a qualified North Dakota voter and has agreed to be on the sponsoring committee. The form, which is generated

for each sponsoring committee member through the drafting tool, must be signed in the presence of a notary.

Caution: Sponsoring committee members may not notarize the affidavits of other committee members; and husbands and wives may not notarize each other's signatures. The names and addresses of the sponsoring committee members on the front page of the petition must match exactly with the names and addresses found on the affidavits. The signed name of each sponsor on his or her affidavit should be typed in the same manner on the sponsoring committee page of the petition. For example, if a sponsoring committee member signs his or her name "John Q Public," then the name should be typed as "John Q Public" or if "John Public," then "John Public" should be entered for the form.

SUBMISSION OF PETITION TO THE SECRETARY OF STATE - DEADLINES: The final draft of the petition, along with the completed sponsoring committee affidavits, must be submitted to the Secretary of State. The Secretary of State and the Attorney General have five to seven business days (excluding Saturdays and Sundays) to draft a petition title and approve the petition for style and legal form. The petition title is a short statement to be included on the petition, which must fairly represent the substance of the proposed change or addition. Please note that the petition title will be provided to you for insertion into the petition. Once the petition is approved, the petition circulators may begin gathering signatures.

When referring legislation passed by the legislature, the referendum petition draft should be submitted as soon as possible after the legislation is filed with the Secretary of State. North Dakota law provides petitioners 90 days to gain approval from the Secretary of State for circulation of the petition and collect and file the required number of signatures. The 90 days begins after the bill passed by the Legislative Assembly is filed with the Secretary of State.

It should be noted that all pages of the petition approved by the Secretary of State must be included with every copy of the petition circulated. The signatures gathered on incomplete petition copies will be rejected and cannot be included in the total number of signatures gathered in the circulation process.

GATHERING SIGNATURES

AMOUNT REQUIRED: Petition signature requirements are based on the percentage of the resident population of the state of North Dakota at the last federal decennial census. According to 2010 census figures, the population of North Dakota was 672,591.

Therefore, the percentages and signature requirements are as follows:

Referendum Petition	2% of 672,591	13,452
Statutory Initiative	2% of 672,591	13,452
Constitutional Initiative	4% of 672,591	26,904

Past petition sponsors have gathered several hundred to several thousand additional signatures beyond the required amounts to ensure that the signature requirement will be met after invalid and/or duplicate signatures are rejected during the review process.

WHO CAN CIRCULATE AND SIGN PETITIONS: Petition circulators and signers must be qualified voters of the area affected by the petition. Petition circulators may begin gathering signatures after the petition has been approved for circulation by the Secretary of State. Petition circulators must be qualified North Dakota voters and must sign an affidavit attached at the end of the petition affirming those persons who signed the petition did so in the presence of the circulator and to the best of the circulator's knowledge, each person who signed the petition is a qualified North Dakota voter.

Although petition circulators may be accompanied by others who may not be qualified voters of the state of North Dakota, a petition must remain in the physical possession of the qualified North Dakota circulator and all signatures obtained must be witnessed by the same.

Caution: Sponsoring committee members may not notarize a circulator's affidavit. Doing so will disqualify all the signatures on that copy of the petition.

Caution: The petition approved for circulation must be circulated in its entirety and contain the pages listing the members of the sponsoring committee, the petition title, the full text of the measure, the instructions to petition signers, spaces for signatures, and the circulator's affidavit.

Caution: Only one circulator may collect signatures on any single copy of a petition. If more than one circulator were to collect signatures on the same petition copy, neither circulator could truthfully sign the affidavit found at the end of the petition.

Caution: Petition circulators should instruct petition signers to sign the petition, print their name, date, and print their entire address (including complete residential address, rural route or general delivery address, city, state, and zip code) legibly on the petition.

Caution: Petitions must be signed in the presence of the qualified circulator. Signatures collected on an unattended petition constitute an improper signing practice and place all signatures on that copy of the petition at risk. Circulators should be near and in control of petitions as they are being signed.

Caution: Circulators wanting to sign the petition should not sign a petition they circulate. Rather they should sign a petition carried by another circulator.

Caution: Notaries wanting to sign the petition should not sign the petition they notarize. Rather they should sign a petition notarized by another notary.

SUBMITTING SIGNATURES TO THE SECRETARY OF STATE

SUBMISSION DEADLINES

Initiatives: An initiative petition must be filed with the Secretary of State no later than one year from the date it is approved for circulation by the Secretary of State (NDCC § 16.1-01-09(7)). The petition, along with the required number of signatures, must be submitted to the Secretary of State no less than 120 days before a statewide election in order for the subsequent measure to be included on that election's ballot. (Constitution of North Dakota, Article III, Section 5). Petitions with sufficient signatures submitted during the period less than 120 days from an election will result in a measure to be included on the next election ballot that is more than 120 days from the date of the submission.

Referendums: A referendum petition with the required number of signatures must be submitted within 90 days after the legislation being referred was signed by the Governor and filed with the Secretary of State (Constitution of North Dakota, Article III, Section 5).

The North Dakota Supreme Court ruled that the 90 and 120-day deadline ends at midnight on the date of the deadline. Because normal office hours for the Secretary of State's office are from 8:00 a.m. until 5:00 p.m., a sponsoring committee must make prior arrangements with the Secretary of State's office if the delivery of petitions is anticipated between 5:00 p.m. and midnight.

The 90-day deadline for a referral petition includes the initial five to seven business days for the review of the petition draft by the Secretary of State and Attorney General. Referendum measures are voted on at the next regularly scheduled statewide election or at any special election called by the Governor for that purpose.

The 120-day initiative petition filing deadlines for the 2018 elections are as follows:

<u>Election</u>	<u>Election Date</u>	<u>Filing Deadline</u>
Primary	June 12, 2018	February 12, 2018
General	November 6, 2018	July 9, 2018

SIGNATURE REVIEW BY SECRETARY OF STATE: Upon submission of initiative or referral petitions to the Secretary of State, the person representing the sponsoring committee must submit a notarized affidavit attesting to the fact that to the best of that person's knowledge, the petitions contain at least the required number of signatures. The form, [Signature Affidavit Initiated and Referred Measures \(SFN 18687\)](#), can be found on the Secretary of State's Elections website ([Vote.ND.Gov](#)) in the Ballot Measures Portal under How to Place a Measure on the Ballot. Upon receipt of initiative or referral petitions with the necessary number of signatures, the Secretary of State has up to 35 days to review the signatures. The Secretary of State will conduct a representative random sampling of the signatures contained in the petitions by the use of post cards, telephone calls, or other accepted information gathering techniques to determine the validity of the signatures. Signatures determined by the Secretary of State to be invalid will not be counted. All violations of North Dakota law discovered by the Secretary of State will be reported to the Attorney General for investigation and prosecution (NDCC § 16.1-01-10).

FISCAL IMPACT OF MEASURE: At least 90 days before a statewide election at which an initiated measure will be voted upon, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the Secretary of State that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative council shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and timeframe prescribed by the legislative council or its designated committee for identifying the estimated fiscal impact of an initiated measure. At least 30 days prior to the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the Secretary of State. Upon receipt, the Secretary of State shall include a notice within the analysis required by NDCC § 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within 30 days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative council under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative council under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

FINANCIAL DISCLOSURE LAWS

STATEMENT OF REMUNERATION: Although it is illegal to pay circulators on a basis related to the number of signatures obtained, the payment of salary and expenses for circulation of a petition on a basis not related to the number of signatures obtained is allowable. If salaries and/or expenses of a circulator or circulators are going to be paid, a [Sponsoring Committee – Statement of Intent of Remuneration \(SFN 11516\)](#) must be filed with the Secretary of State prior to paying for petitions to be circulated. The form can be found on the Secretary of State's Elections website ([Vote.ND.Gov](#)) in the Ballot Measures Portal under How to Place a Measure on the Ballot. NDCC § 16.1-01-12(1)(j)

SPONSORING COMMITTEE CONTRIBUTION AND EXPENDITURE STATEMENTS: All statements mentioned below must be filed online utilizing the [North Dakota Campaign Finance Online system](#):

Legislation was passed during the 2017 Legislative Assembly that calls for new disclosure requirements for all statements filed for campaign activity in 2018 and beyond. This means that the new law does not take effect until that time. Please note that the filing requirements may be different depending on when the activity occurs.

➤ **Filing Requirements Through December 31, 2017**

- Drafting Statement

At the time the sponsoring committee for an initiated or referendum petition requests approval of the secretary of state to circulate petitions for the purpose of placing a measure on the ballot, the committee also shall submit a statement disclosing the contributions received and the expenditures made relating to the petition. NDCC § 16.1-08.1-03.13(1)

- **Circulating Statement**
At the time the sponsoring committee for an initiated or referendum petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the contributions received and expenditures made relating to the petition. NDCC § 16.1-08.1-03.13(2)
- **Year-End Statement (if year-end occurs prior to the measure appearing on a ballot)**
If December thirty-first falls between the date the secretary of state approves the petition for circulation and the date the signed petitions are submitted to the secretary of state, a complete statement for the calendar year shall be filed no later than the thirty-first day of January of the following year. NDCC § 16.1-08.1-03.13(3)
- **Year-End Statement**
The sponsoring committee also shall file a complete statement for each calendar year in which the committee was active. This statement shall be filed no later than the thirty-first day of January of the following year. NDCC § 16.1-08.1-03.13(4)

➤ **Filing Requirements Beginning January 1, 2018**

- **Drafting Statement**
At the time the sponsoring committee for an initiated or referendum petition requests approval of the secretary of state to circulate petitions for the purpose of placing a measure on the ballot, the committee also shall submit a statement disclosing the contributions received and the expenditures made relating to the petition. NDCC § 16.1-08.1-03.1(3)
- **Circulating Statement**
At the time the sponsoring committee for an initiated or referendum petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the contributions received and expenditures made relating to the petition. NDCC § 16.1-08.1-03.1(3)
- **Pre-Election Statement**
If a statewide primary, general, or special election falls between the date that the secretary of state approves the petition for circulation and end of the year, the committee shall submit a statement disclosing the contributions received and the expenditures made relating to the petition from the beginning of the year through the fortieth day before the election. A complete statement may be submitted beginning on the thirty-ninth day before the election and must be submitted prior to the thirty-first day before an election. NDCC § 16.1-08.1-02.4
- **Year-End Statement**
The sponsoring committee also shall file a complete statement for each calendar year in which the committee was active. This statement shall be filed no later than the thirty-first day of January of the following year. NDCC § 16.1-08.1-02.4

OUT-OF-STATE CONTRIBUTION STATEMENT (if necessary with each of the above reports): A sponsoring committee may not accept a contribution of more than one hundred dollars from an out-of-state person or political committee unless the contribution is accompanied by a statement from the contributor listing the name, address, and amount contributed by each person that contributed more than one hundred dollars of the contribution. The statement must indicate if no person contributed in excess of one hundred dollars of the out-of-state person's or political committee's overall contribution. The statement must also list the occupation, employer, and principal place of business for each individual who contributed more than one hundred dollars of the contribution. Through December 31, 2017: NDCC § 16.1-08.1-03.13(5), After January 1, 2018: NDCC § 16.1-08.1-02.4.

ELECTRONIC CAMPAIGN FINANCE REPORTING: All campaign finance statements due to the Secretary of State must be filed electronically through the reporting tool available on the Secretary of State's website at Vote.ND.Gov.

PERSON NOT EXCUSED FROM TESTIFYING AS TO VIOLATION – PROSECUTION OR PENALTY WAIVED UPON TESTIFYING: No person may be excused from attending and testifying or producing books, papers, or other documents before any court upon any investigation, proceeding, or trial for a violation of any of the provisions of chapter 16.1-08.1 of the NDCC, upon the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or degrade the person. No person may be prosecuted nor subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person may testify or produce evidence, documentary or otherwise, and no testimony so given or produced may be used against the person in any criminal investigation or proceeding. NDCC § 16.1-08.1-03.4

AUDIT BY SECRETARY OF STATE: An audit of any statement filed may be initiated by the Secretary of State or by an outside entity if a substantial irregularity is evident or reasonably alleged. In either case, such an audit will be arranged by the Secretary of State and performed by a certified public accountant of the filer's choice, subject to approval of the Secretary of State. An audit made or arranged must audit only those items required to be included in any statement filed with the Secretary of State. The Secretary of State may collect any payment obligation arising out of this audit by civil action or by assignment to a collection agency, with any costs of collection to be added to the amount owed and to be paid by the delinquent filer. Any remaining moneys collected by the Secretary of State after an audit is paid for must be deposited in the state's general fund. NDCC § 16.1-08.1-05

Initiation of Audit – Secretary of State

- Justification for audit: A substantial irregularity is evident or reasonably alleged.
- Initiation of audit process: Determined by the Secretary of State.
- Cost of Audit – No Violation: The Secretary of State's office bears the cost of the audit.
- Cost of Audit – Violation: If an audit of a statement arranged by the Secretary of State reveals a violation, the candidate, political party, political committee, or other person filing the statement shall pay a fine to the Secretary of State equal to two hundred percent of the aggregate (total) of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater.

Initiation of Audit – Outside Entity

- Justification for audit: A substantial irregularity is reasonably alleged.
- Initiation of audit process: A written request received by the Secretary of State from any interested party that is made within 30 days following receipt of a statement by the Secretary of State. The written request must recite a substantial irregularity and a lawful reason for requesting an audit, and be accompanied by a bond in an amount established by the Secretary of State as sufficient to pay the cost of the audit.
- Cost of Audit – No Violation: If an audit of a statement arranged by the Secretary of State does not reveal a violation, the cost of the audit must be satisfied from the bond filed with the Secretary of State.
- Cost of Audit – Violation: The cost is paid as described above (under "Initiation of Audit – Secretary of State"); the bond shall be returned to the person who submitted it.

CAMPAIGN FINANCE REQUIREMENTS FOR THE FILING OF STATEMENTS:

A required statement to be filed with the Secretary of State must be:

- a. Filed electronically with the Secretary of State within the prescribed time and in the format established by the Secretary of State. If the Secretary of State does not receive a statement, an electronic duplicate of the statement must be promptly filed upon notice by the Secretary of State of its non-receipt. After a statement has been filed, the Secretary of State may request or accept written clarification along with an amended statement from a candidate, political party, or political committee filing the statement when discrepancies, errors, or omissions on the statement are discovered by the Secretary of State, the

candidate, political party, or political committee filing the statement, or by any interested party reciting a lawful reason for requesting clarification and an amendment be made.

- b. Preserved by the Secretary of State for a period of ten years from the filing deadline. The statement is to be considered a part of the public records of the Secretary of State's office and must be open to public inspection on the internet.

In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total contribution for the purposes of the statements required by this chapter. Aggregate (total) contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.

Unless otherwise provided by law, any candidate, political party, committee, or person may not be charged a fee for filing any contribution statement with the Secretary of State.

PENALTY: Except as otherwise provided, any person who willfully violates any provision of chapter 16.1-08.1 of the NDCC is guilty of a class A misdemeanor. NDCC § 16.1-08.1-07

FILING DEADLINES:

- | | | |
|----------------------------------|---|--|
| 1. Drafting Statement: | covered dates:
statement is due: | time of drafting the petition
at time approval is requested |
| 2. Circulation Statement: | covered dates:
statement is due: | duration of circulation
when signed petitions submitted |
| 3. Year-End Statements | covered dates:
statement is due: | January 1 – December 31
January 31 of following year |

COMMONLY ASKED QUESTIONS

Q. How many signatures do I need?

A. Initiated statutory measures and referred measures require 13,452 signatures.
Initiated constitutional measures require 26,904 signatures.

Q. Who can circulate petitions and collect signatures?

A. Any qualified voter of North Dakota. A qualified voter of North Dakota is:

- A U.S. Citizen;
- A resident of this state;
- A resident of the precinct at least 30 days preceding the election; and
- At least 18 years or older.

Incarcerated felons and persons officially declared mentally incompetent by court ruling are not qualified voters.

Q. Who can sign the petition?

A. Any qualified voter of North Dakota as defined above. Petition circulators may sign a petition as long as it is not a petition they have personally circulated.

Q. Can sponsoring committee members act as circulators?

A. Yes. Sponsoring committee members must be qualified North Dakota voters as defined above and as such are eligible to circulate petitions. However, sponsoring committee members may not sign a petition that they are personally circulating.

Q. Can sponsoring committee members sign a petition?

A. Yes. Sponsoring committee members must be qualified North Dakota voters as defined above and as such are eligible to sign a petition. However, sponsoring committee members may not sign a petition which they are personally circulating.

Q. When does an initiated measure take effect?

A. According to the North Dakota Constitution, if a majority of votes cast upon an initiated or a referred measure is affirmative, it shall be deemed enacted. An initiated or referred measure which is approved shall become law 30 days after the election, and a referred measure which is rejected shall be void immediately. If conflicting measures are approved, the one receiving the highest number of affirmative votes shall become law. A measure approved by the electors may not be repealed or amended by the Legislative Assembly for seven years from its effective date, except by a two-thirds vote of the members elected to each house.

Q. What happens to a law being referred?

A. The submission of a referral petition with the required number of signatures suspends the operation of any measure enacted by the Legislative Assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. An emergency measure requires a two-thirds vote of the members elected to each house and must include in the act a declaration that it is an emergency.

Q. Can the notary who notarized the petition, or the notary's spouse, sign the same petition the notary has notarized?

A. No. Neither the notary nor the notary's spouse may sign the same petition that the notary notarized. They can however, sign a different petition that neither has notarized.

Q. Do I need to hire a lawyer to draft my petition?

A. Not necessarily. After reading this pamphlet and the sample petitions, you will have a better understanding of how the process works and have an idea of the amount of assistance, if any, you may need. This pamphlet is designed to assist you in the layout and form of the petition as is the petition drafting tool located on the Secretary of State's website ([Petition Drafting Tool](#)). Drafting the actual substance (known as the full text of the measure) is the most difficult part of the petition drafting process. Complicated measures may require a higher degree of legal drafting skills to ensure that the desired outcome is achieved.

NORTH DAKOTA CONSTITUTION - ARTICLE III - Powers Reserved to the People

Section 1. While the legislative power of this state shall be vested in a legislative assembly consisting of a senate and a house of representatives, the people reserve the power to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative Acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

Section 2. A petition to initiate or to refer a measure shall be presented to the secretary of state for approval as to form. A request for approval shall be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom shall be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

The legislative assembly may provide by law for a procedure through which the legislative council may establish an appropriate method for determining the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public.

Section 3. The petition shall be circulated only by electors. They shall swear thereon that the electors who have signed the petition did so in their presence. Each elector signing a petition shall also write in the date of signing and his post-office address. No law shall be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

Section 4. The petition may be submitted to the secretary of state if signed by electors equal in number to two percent of the resident population of the state at the last federal decennial census.

Section 5. An initiative petition shall be submitted not less than one hundred twenty days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

Section 6. The secretary of state shall pass upon each petition, and if the secretary of state finds it insufficient, the secretary of state shall notify the "committee for the petitioners" and allow twenty days for correction. All decisions of the secretary of state in regard to any petition are subject to review by the Supreme Court. But if the sufficiency of the petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate the measure if it is at the election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof is upon the party attacking it and the proceedings must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon.

Section 7. All decisions of the secretary of state in the petition process are subject to review by the Supreme Court in the exercise of original jurisdiction. A proceeding to review a decision of the secretary of state must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon. If the decision of the secretary of state is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

Section 8. If a majority of votes cast upon an initiated or a referred measure are affirmative, it shall be deemed enacted. An initiated or referred measure which is approved shall become law thirty days after the election, and a referred measure which is rejected shall be void immediately. If conflicting measures are approved, the one receiving the highest number of affirmative votes shall be law. A measure approved by the

electors may not be repealed or amended by the legislative assembly for seven years from its effective date, except by a two-thirds vote of the members elected to each house.

Section 9. A constitutional amendment may be proposed by initiative petition. If signed by electors equal in number to four percent of the resident population of the state at the last federal decennial census, the petition may be submitted to the secretary of state. All other provisions relating to initiative measures apply hereto.

EXCERPTS FROM NDCC CHAPTER 16.1-01

16.1-01-09. Initiative or referendum 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. The filed signature forms must be originals.
- 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 "petition 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. An individual may not sign any initiative or referendum petition circulated pursuant to article III of the Constitution of North Dakota unless the individual is a qualified elector. An individual may not sign any petition more than once, and each signer shall also legibly print the signer's name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition shall do so in the presence of the individual circulating the petition. A referendum or initiative petition must be on a form prescribed by the secretary of state containing the following information:

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
_____ (Chairperson)	_____

_____ PETITION 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 MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

[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 shall also legibly print their name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

Month, Day, Year	Signed Name of Qualified Elector	Printed Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City State, Zip Code
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 individual 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 individual 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. No petition may be circulated under the authority of article III of the Constitution of North Dakota by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual 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.

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 individual's knowledge, the petitions contain at least the required number of signatures. Upon submission of the petitions to the secretary of state, the petitions are considered filed and may not be returned to the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a petition that has been submitted to and received by the secretary of state.
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.
7. An initiative petition may be circulated for one year from the date it is approved for circulation by the secretary of state.

16.1-01-10. Secretary of state to pass upon sufficiency of petitions - Method - Time limit.

The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to pass upon the sufficiency of any petition mentioned in section 16.1-01-09. The secretary of state shall 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 secretary of state to be invalid may not be counted and all violations of law discovered by the secretary of state must be reported to the attorney general for prosecution.

16.1-01-12. Election offenses - Penalty.

1. It is unlawful for an individual, measure committee as described in section 16.1-08.1-01, or other organization to:
 - a. Fraudulently alter another individual's ballot or substitute one ballot for another or to otherwise defraud a voter of that voter's vote.
 - b. Obstruct a qualified elector on the way to a polling place.
 - c. Vote more than once in any election.
 - d. Knowingly vote in the wrong election precinct or district.
 - e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
 - f. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified person to vote.
 - g. Knowingly vote when not qualified to do so.
 - h. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
 - i. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or circulate such a petition when unqualified to do so.
 - j. Pay or offer to pay any individual, measure committee, or other organization, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file their intent to remunerate prior to submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a pre-election report by individuals or organizations soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1. Any signature obtained in violation of this subdivision is void and may not be counted.
 - k. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.

- l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
 - m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to the individual's or organization's care.
 - n. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.
 - o. Sign a name other than that individual's own name to an initiative, referendum, recall, or any other election petition.
- 2.
 - a. A violation of subdivisions b, e, f, or h through l of subsection 1 is a class A misdemeanor.
 - b. A violation of subdivisions a, c, d, g, or m of subsection 1 is a class C felony.
 - c. A violation of subdivision n of subsection 1 occurring after an election but before the final canvass, or during an election, is a class C felony, and in other cases is a class A misdemeanor.
 - d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an individual signs one or two names other than the individual's own name to a petition and is a class C felony if an individual signs more than two names other than the individual's own name to a petition.
 - e. An organization, as defined in section 12.1-03-04, that violates this section is subject to the organizational fines in section 12.1-32-01.1. The court in which the conviction is entered shall notify the secretary of state of the conviction and shall order the secretary of state to revoke the certificate of authority of any convicted organization or limited liability company. The organization may not reapply to the secretary of state for authorization to do business under any name for one year upon conviction of a class A misdemeanor and for five years upon conviction of a class C felony under this section.
 - f. An individual who is a member of an organization may be convicted of a violation as an accomplice under section 12.1-03-01.
 - 3. Every act which by this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election.

16.1-01-17. Estimated fiscal impact of an initiated measure.

At least ninety days before a statewide election at which an initiated measure will be voted upon, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative management shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and timeframe prescribed by the legislative council for identifying the estimated fiscal impact of an initiated measure. At least thirty days before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative management under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative management under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

NDCC SECTION 16.1-06-09

16.1-06-09. Constitutional amendments and initiated and referred measures - Manner of stating question - Explanation of effect of vote - Order of listing.

Constitutional amendments or measures, initiated measures, and referred measures, duly certified to the county auditor by the secretary of state, or any other question or measure to be voted on, except the election of public officers at any primary, general, or special election including officers subject to a recall petition, must, unless otherwise determined by the secretary of state, be stated in full in a legible manner on the ballot. If the secretary of state concludes the amendment or measure is too long to make it practicable to print in full, the

secretary of state in consultation with the attorney general shall cause to be printed a short, concise summary, which must fairly represent the substance of the constitutional amendment or initiated or referred measure. After the foregoing statement, the secretary of state shall cause to be printed another short, concise statement of the effect of an affirmative or negative vote on the constitutional amendment or initiated or referred measure. This explanatory statement must be drafted by the secretary of state in consultation with the attorney general. The words "Yes" and "No" must be printed on the ballot at the close of the statement regarding the effect of an affirmative or negative vote, in separate lines with an oval before each statement in which the voter is to indicate how the voter desires to vote on the question by darkening the oval. If two or more amendments or questions are to be voted on, they must be printed on the same ballot.

The measures to be submitted to the electors must be grouped and classified as constitutional measures, initiated statutes, or referred statutes and must be placed within such groups or classifications by the secretary of state in the order received, for the purpose of placing them on the ballot. Measures submitted by the legislative assembly must be placed first on the ballot within their classification in the order approved by the legislative assembly. Constitutional measures shall be placed first on the ballot, initiated statutes second, and referred statutes third. After all the measures have been placed within the appropriate group or classification, all measures must be numbered consecutively, without regard to the various groups or classifications.

SAMPLE OF SPONSORING COMMITTEE AFFIDAVIT

***Note:** These affidavits should be collectively presented to the Secretary of State with the first draft of the petition. See page 6 regarding the submission of the petition to the Secretary of State.

I, _____, (Printed name) being first duly sworn, on oath, state that:

1. My address is:

2. I am a qualified North Dakota voter.

3. I am a member of the sponsoring committee for the attached [initiated measure, which (describe purpose of initiated measure)] [referral petition referring _____ Bill No. _____, as passed by the _____ Legislative Assembly and relating to (describe bill)].

4. The attached (initiative) (referral) petition is presented to you as Secretary of State of the State of North Dakota for approval of the form of the petition.

(Signature)

STATE OF NORTH DAKOTA

COUNTY OF _____

Subscribed and sworn before me, this _____ day of _____, 20_____.

(Notary Stamping Device)

(signature of notarial officer)

SAMPLE OF INITIATIVE PETITION

**INITIATIVE PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request 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 1, Chairperson
Address 1
City ND 58555

Name 2
Address 2
City ND 58103

Name 3
Address 3
City ND 58103

Name 4
Address 4
City ND 58103

Name 5
Address 5
City ND 58103

Name 6
Address 6
City ND 58103

Name 7
Address 7
City ND 58103

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City ND 58103

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Address 25
City ND 58103

PETITION TITLE

(Note: The Petition Title will be drafted by the Secretary of State, approved by the Attorney General, and then provided to you for insertion into the petition in this space. Please replace this note with the wording for the Petition Title sent to you by the Secretary of State.)

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 MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. Amendment. Section 11 of Article X of the North Dakota Constitution is amended and reenacted as follows:

Section 11. Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, except revenue from aviation gasoline and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, ~~shall~~ must be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways, and as otherwise provided in this section. For each year an amount of revenue from gasoline and motor fuel excise taxation, corresponding to an amount at least equal to five dollars multiplied by the number of licensed motorboats in the state, must be appropriated to a special account within the game and fish fund known as the motorboat programs and safety account and to be used for the construction, reconstruction, repair, and maintenance of boating facilities, and for boating administration, and for the payment of obligations incurred in the construction, reconstruction, repair, and maintenance of boating facilities.

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 shall also legibly print their name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

Month/Day /Year	PRINTED Name of Qualified Elector	SIGNED Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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State of North Dakota

County of _____
(county where signed)

I, _____, being sworn, say that I am a qualified elector; that I reside at
(circulator)

(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 individual 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 individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, 20_____, at _____, North Dakota.
(city)

(Notary Stamping Device)

(signature of notarial officer)

SAMPLE OF REFERENDUM PETITION

**REFERENDUM PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA**

We, the undersigned, being qualified electors request House Bill No. 1054 passed by the sixty-third Legislative Assembly 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 1, Chairperson
Address 1
City ND 58555

Name 2
Address 2
City ND 58103

Name 3
Address 3
City ND 58103

Name 4
Address 4
City ND 58103

Name 5
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City ND 58103

PETITION TITLE

(Note: The Petition Title will be drafted by the Secretary of State, approved by the Attorney General, and then provided to you for insertion into the petition in this space. Please replace this note with the wording for the Petition Title sent to you by the Secretary of State.)

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 MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

HOUSE BILL NO. 1054

AN ACT to amend and reenact section 4.1-14-01 of the North Dakota Century Code, relating to forage certification; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-14-01 of the North Dakota Century Code is amended and reenacted as follows:

4.1-14-01. Certification of forage - Compliance with other standards.

1. To obtain certification that weeds prohibited according to the standards of the North American ~~weed~~invasive species management association are not cut when producing viable seeds and included in baled forage, the owner of the forage shall request that the agriculture commissioner conduct a certification inspection.
2. Upon receiving the request, the agriculture commissioner shall:
 - a. Inspect the forage acreage within ten days before harvest to verify that weeds prohibited according to the standards of the North American ~~weed~~invasive species management association are not present and producing viable seeds; and
 - b.
 - (1) Ascertain that the scheduled harvest has occurred;
 - (2) Determine the number of bales for which certification tags or department-approved twine, or both, must be issued; and
 - (3) Verify that the baled forage is stored or will be stored only in an area where weeds prohibited according to the standards of the North American ~~weed~~invasive species management association are not present and producing viable seeds.
2. If the agriculture commissioner determines that the conditions of subsection 2 have been met, the commissioner shall issue and affix or cause to be affixed on each bale of forage one dated certification tag or shall authorize the use of department-approved twine to bale the forage.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

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 shall also legibly print their name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

Month/Day /Year	PRINTED Name of Qualified Elector	SIGNED Name of Qualified Elector	Residential Address or Complete Rural Route or General Delivery Address	City, State, Zip Code
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State of North Dakota

County of _____
(county where signed)

I, _____, being sworn, say that I am a qualified elector; that I reside at
(circulator)

(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 individual 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 individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, 20_____, at _____, North Dakota.
(city)

(Notary Stamping Device)

(signature of notarial officer)