# 2011-2012

# INITIATING AND REFERRING LAW IN NORTH DAKOTA

# North Dakota

# ✓otes 2012


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Alternate formats for persons with disabilities are available upon request.

## FORWARD

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 Division 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 Division, 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.

# TABLE OF CONTENTS

**Introduction - Terminology** ..... 4
- Petition Process - Petition - Measure
- Statutory Initiative
- Constitutional Initiative
- Referred Measure - Referral Initiative - Referral Drive

**Getting Started** ..... 4
- Review the Laws - (North Dakota Constitution and North Dakota Century Code)
- Drafting the Petition
- Sponsoring Committee
- Sponsoring Committee Affidavits
- Submission of Petition to Secretary of State - Deadline

**Gathering Signatures** ..... 5
- Amount Required
- Petition Circulators

**Submitting Signatures to the Secretary of State** ..... 6
- Submission Deadlines
  - Initiatives
  - Referendums
- Signature Review by Secretary of State
- Fiscal Impact of Measure

**Financial Disclosure Laws** ..... 7
- Statement of Remuneration
- Political Committee Registration
- Campaign Contribution Statements

**Commonly Asked Questions** ..... 10

**North Dakota Constitution Article III** ..... 12

**North Dakota Century Code** ..... 13

**Sample of Sponsoring Committee Affidavit** ..... 16

**Sample of Initiative Petition** ..... 17

**Sample of Referendum Petition** ..... 20

**Signature Affidavit** ..... 23

**Statement on Intent of Remuneration** ..... 24

## 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 handy reference for answering questions about how a law is initiated or referred.

## TERMINOLOGY

Before getting started, it is important to become familiar with the terminology you will see or hear in connection with the petition process. Understanding the terminology will help you understand North Dakota law as it governs the initiative and referral process.

**PETITION PROCESS:** Refers to the process used by voters to initiate a change to North Dakota law or to refer legislation passed by the Legislative Assembly.

**PETITION:** "Petition" refers to the document which is drafted to initiate or refer a "measure" and upon which signatures in support of the measure are gathered. The terms "petition" and "measure" are often used interchangeably; thus you will hear terms like "initiated measure" and "initiated petition" or "referral petition" and "referred measure."

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

There are 3 types of petitions:

**STATUTORY INITIATIVE:** To amend or enact a law in the North Dakota Century Code (NDCC).

**CONSTITUTIONAL INITIATIVE:** To amend or enact new portions of the North Dakota Constitution.

**REFERRED MEASURE - REFERRAL INITIATIVE - REFERRAL DRIVE:** These three terms are used interchangeably to reject legislation passed by the Legislative Assembly to 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 initiated and referred measures. 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 12-16.

**DRAFTING THE PETITION:** A referendum or initiative petition must be drafted in the manner prescribed by law. NDCC 16.1-01-09 provides the form of the petition (see pages 12-14). Examples of past initiative and referendum petitions may be found on pages 17-19 (initiative) and pages 20-22 (referral).

**SPONSORING COMMITTEE:** Whether you are initiating or referring a law, 25 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 must appear on the front page of the petition. See pages 17 and 20 for examples. One sponsoring committee member shall be designated as committee chairman.

A qualified North Dakota voter is one who is:

- A U.S. Citizen;
- A legal 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 an affidavit, also known as a Signature Form (see page 16). The affidavit is a statement by the sponsoring committee member that the member is a qualified North Dakota voter and has agreed to be on the sponsoring committee. The form must be notarized.

> **Caution:** Sponsoring committee members may not notarize the affidavit of other committee members; 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 on the affidavit, if different than the printed name, should be used on the petition.

**SUBMISSION OF PETITION TO THE SECRETARY OF STATE - DEADLINES:** The final draft of the petition, along with the completed sponsoring committee affidavits, will be submitted to the Secretary of State. The Secretary of State and the Attorney General have five to seven business days (excluding Saturdays) 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 Secretary of State suggests the petition title to be printed on each petition in a legible font size equal to at least 12 point. Once the petition title and petition are approved, the petition circulators may begin gathering signatures.

When referring legislation passed by the legislature, the referral petition draft should be submitted as soon as possible after the legislation is filed with the Secretary of State. North Dakota law provides petitioners up to 90 days after the legislation is filed with the Secretary of State to collect and file the required number of signatures.

## 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:

| | | |
|---|---|---|
| **Referral 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 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 (see pages 14, 19 and 22 for examples of Circulator Affidavits) 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, petitions must remain in the physical possession of circulators who are qualified North Dakota voters.

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

**Caution:** The petition approved for obtaining signatures 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 legibly and to add the date and their entire address (including complete residential address, rural route or general delivery address, city, state, and zip code) to the petition.

**Caution:** Petitions must be signed in the presence of the qualified circulator. Signatures that are collected on an unattended petition constitute an improper signing practice and place all signatures on the single petition copy 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 the petition they circulate. Rather they should sign a petition carried by another circulator.

## 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). To have the initiated measure voted on at a particular election, the petition, along with the required number of signatures, must be submitted to the Secretary of State no less than 90 days before the statewide election at which the measure is to be voted upon. (Constitution of North Dakota, Article III, Section 5)

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

The filing deadlines for the 2012 elections are as follows:

| Election | Election Date | Filing Deadline |
|---|---|---|
| **Primary** | **June 12, 2012** | **March 14, 2012** |
| **General** | **November 6, 2012** | **August 8, 2012** |

**SIGNATURE REVIEW BY SECRETARY OF STATE:** Upon submission of an initiative or referral petition 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. A sample copy of the affidavit, Signature Affidavit Initiated and Referred Measures (SFN 18687), is included on page 23. Upon receipt of an initiative or referral petition 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:** 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 statement of remuneration must be filed with the Secretary of State prior to submitting the petition for review. See page 24 for a sample copy of the Statement On Intent Of Remuneration (SFN 11516). Full disclosure of all contributions received pursuant to NDCC chapter 16.1-08.1 must then be made upon submission of the petition to the Secretary of State. The disclosure of contributions received and expenditures made under this section does not affect the requirement to file a pre-election report by persons 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. NDCC §16.1-01-12(11)

**POLITICAL COMMITTEE REGISTRATION:** No later than 15 business days after the receipt of any contribution or expenditure made for the support or defeat of a measure, the measure committee shall register its name, address, and its agent's name and address with the Secretary of State. A $25 registration fee must accompany this registration. The committee must submit a registration and $25 registration fee to the Secretary of State each year in which a contribution is received or expenditure made. A political committee that organizes and registers according to federal law and makes a disbursement in excess of $200 to a political committee in this state is not required to register as a political committee according to this section if the political committee reports according to NDCC 16.1-08.1-03.7. Registration under this section does not reserve the name for exclusive use nor does it constitute registration of a trade name under chapter 47-25.

NDCC §§ 16.1-08.1-03.2 and 16.1-08.1-03.7

**CONTRIBUTIONS STATEMENT REQUIRED OF PERSONS PROMOTING PASSAGE OR DEFEAT OF INITIATED OR REFERRED MEASURE:** Any person or measure committee who is 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, shall file a detailed statement identifying contributors who made contributions in excess of $100 in the aggregate during the reporting period and a detailed listing of all expenditures made in excess of $100 in the aggregate (total). The statement must include the name, mailing address, amount of each reportable contribution or expenditure and the date each reportable contribution was received or expenditure made.

A person or measure committee soliciting or accepting a contribution 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 may not accept a contribution of more than $100 from a person who does not reside in this state or from an out-of-state political committee unless the contribution is accompanied by a certified statement from the contributor listing the name, address, occupation, employer, principal place of business and the amount contributed by each person who contributed more than $100 towards the overall contribution. The statement must indicate if no individual person contributed in excess of $100 of the out-of-state person's or political committee's overall contribution. This certified statement must be included with the contribution statement required to be filed under subsection 1 of NDCC §16.1-08.1-03.1.

The statement required of a person under subsection 1 of NDCC §16.1-08.1-03.1 must be filed with the Secretary of State no later than the 12th day prior to the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the 20th day prior to the date of the election. A complete statement for the entire calendar year must be filed no later than the 31st day of January of the following year. Even if a person required to report has not received any contributions or expenditures during the reporting period, the person shall file a required statement. The statement must show the following: the gross total of all contributions received and expenditures made in excess of $100; the gross total of all contributions received and expenditures made of $100, or less; and the cash on hand in the filer's account at the start and close of the reporting period. Forms for measure reporting are available from the Secretary of State. NDCC §16.1-08.1-03.1

**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

**EXPENDITURES FOR OTHER PURPOSES – REPORT REQUIRED:** North Dakota law does not prohibit the exercise by corporations, cooperative corporations, limited liability companies, and associations of the right to make expenditures and contributions for the purpose of promoting passage or defeat of initiated or referred measures, or for promoting any general political philosophy or belief deemed in the best interest of the employees, stockholders, patrons, or members of the corporation, cooperative corporation, limited liability company, or association other than a "political purpose" as defined by chapter 16.1-08.1 of the NDCC. Any corporation, cooperative corporation, limited liability company, or association that receives contributions pursuant to NDCC §16.1-08.1-03.1 or spends money for the purpose of promoting passage or defeat of initiated or referred measures, other than a contribution to another person or measure committee promoting passage or defeat of an initiated or referred measure, shall file a statement pursuant to NDCC §16.1-08.1-03.1 along with a statement listing the total amount of money spent for that purpose. The statements must be filed with the

Secretary of State no later than the 12th day before the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the 20th day before the date of the election. Statements showing the total amount of money spent for the purpose of promoting passage or defeat of initiated or referred measures must be filed with the Secretary of State through the end of the calendar year in which the measure appeared or would have appeared on the ballot. NDCC §'s 16.1-08.1, 16.1-08.1-03.1

**SUPPLEMENTAL STATEMENT REQUIRED ON LARGE CONTRIBUTIONS RECEIVED AFTER ORIGINAL STATEMENT – FILING TIME:** If any measure committee receives any contribution in excess of $500 in the 20 day period before any election from any individual contributor, that measure committee shall file a supplemental statement in the same form as required by NDCC § 16.1-08.1-03.1 stating the name and street address of the contributor and the amount of the contribution, and file the statement in the appropriate office within 48 hours of the receipt of the contribution. NDCC §16.1-08.1-04

**AUDIT BY SECRETARY OF STATE:**

An audit made or arranged according to this section must audit only those items required to be included in any statement, registration, or report filed with the Secretary of State according to this chapter. The Secretary of State may collect any payment obligation arising out of this section 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. The preceding does not apply to statements filed according to section 16.1-08.1-03.9.
NDCC §16.1-08.1-05

An audit of any statement filed may be initiated by the Secretary of State or by an outside entity. 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 may not be made or requested of a statement for the sole reason that it was not timely filed with the Secretary of State.

**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 under this subsection reveals a violation of this chapter, the candidate, political party, or political committee filing the statement shall pay a fine to the Secretary of State equal to 5 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 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.

**CONTRIBUTIONS STATEMENT REQUIREMENTS:**

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

a. Deemed properly filed when deposited with or delivered to the Secretary of State within the prescribed time and in the format established by the Secretary of State. A statement that is mailed is deemed properly filed when it is postmarked and directed to the Secretary of State within the prescribed time. If the Secretary of State does not receive a statement, a 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 four years from the date of filing. 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.

2. If the filing date falls on a Saturday or Sunday or a holiday on which the office of the Secretary of State is closed, the statement must be filed on the next available day on which the office of the Secretary of State is open. 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.

3. 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 an infraction. NDCC §16.1-08.1-07

**FILING DEADLINES:** Pre-election reports are due 12 days before the election in which the measure appears or would have appeared on the ballot and cover the period of time from the beginning of the election year through 20 days before the election. Year-end reports are due by January 31st of the following year. NDCC §16.1-08.1-03.1

| | | | |
|---|---|---|---|
| **1.** | **Pre-primary reporting period:** | **covered dates:** | January 1 - May 23 |
| | | **report is due:** | May 31, 2012 |
| **2.** | **Pre-general reporting period:** | **covered dates:** | January 1-October 17 |
| | | **report is due:** | October 25, 2012 |
| **3.** | **Year-end reporting period:** | **covered dates:** | entire election year |
| | | **report is due:** | January 31, 2013 |

**Note 1:** Initiated or referred measures committees must file a supplemental report within 48 hours if a contribution in excess of $500 is received within 20 days before an election.
NDCC §16.1-08.1-04

**Note 2:** Reports will not be accepted earlier than the 20-day cut-off date before the election (see reporting periods and their respective dates above).

All forms and statements mentioned above may be obtained online from the Secretary of State's website at www.nd.gov/sos or by calling (701) 328-4146.

## COMMONLY ASKED QUESTIONS

**Q.** How many signatures do I need?
**A.** Initiated statutory measures and referred measures require 12,844 signatures.
Initiated constitutional measures require 25,688 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 legal resident of this state;
- A resident of the precinct at least 30 days preceding the election; and is
- At least 18 years or older.

Incarcerated felons and persons officially declared mentally incompetent 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 are 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 which is 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 attached examples of past 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. Drafting the actual substance of your 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.

**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 ninety 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 he finds it insufficient, he shall notify the "committee for the petitioners" and allow twenty days for correction or amendment. All decisions of the secretary of state in regard to any such petition shall be subject to review by the Supreme Court. But if the sufficiency of such 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 such measure if it is at such election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

**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. If his decision is being reviewed at the time the ballot is prepared, he 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.

**NDCC CHAPTER 16.1-01 – INITIATIVE AND REFERENDUM**

**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 add the signer's complete residential address or rural route or general delivery address and the date of signing. 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 |
|---|---|
| _____(Chairman) | _____ |
| _____ | _____ |

**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 must add their complete residential address or 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 individual circulating the petition.

**QUALIFIED ELECTORS**

| | Month, Day, Year | Name of Qualified Elector | Residential Address or complete Rural Route or General Delivery Address | City State Zip |
|---|---|---|---|---|
| 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 over-struck 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 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 _____, _____, 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. 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.

**16.1-01-11. Certain questions not to be voted upon for three months.** Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired, and in no event may more than two elections on the same general matter be held within twelve consecutive calendar months.

**NDCC SECTION 16.1-06-09 – INITIATIVE AND REFERENDUM**

**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 paper ballot. If the secretary of state concludes the amendment or measure is too long to make it practical 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, 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, 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 on 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. Where 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 Seal / Stamp)

_____
Notary Public

My Commission Expires: _____

**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, Chairman
Address 1
City, ND Zip Code

Name 2
Address 2
City, ND Zip Code

Name 3
Address 3
City, ND Zip Code

Name 4
Address 4
City, ND Zip Code

Name 5
Address 5
City, ND Zip Code

Name 6
Address 6
City, ND Zip Code

Name 7
Address 7
City, ND Zip Code

Name 8
Address 8
City, ND Zip Code

Name 9
Address 9
City, ND Zip Code

Name 10
Address 10
City, ND Zip Code

Name 11
Address 11
City, ND Zip Code

Name 12
Address 12
City, ND Zip Code

Name 13
Address 13
City, ND Zip Code

Name 14
Address 14
City, ND Zip Code

Name 15
Address 15
City, ND Zip Code

Name 16
Address 20
City, ND Zip Code

Name 17
Address 21
City, ND Zip Code

Name 18
Address 22
City, ND Zip Code

Name 19
Address 23
City, ND Zip Code

Name 20
Address 24
City, ND Zip Code

Name 21
Address 25
City, ND Zip Code

Name 22
Address 25
City, ND Zip Code

Name 23
Address 25
City, ND Zip Code

Name 24
Address 25
City, ND Zip Code

Name 25
Address 25
City, ND Zip Code

## PETITION TITLE

***NOTE:*** *Petition title to be drafted by the Secretary of State, approved by the Attorney General, and attached to the petition before circulation. See example of a petition title below.*

This initiated measure would amend Article X, Section 11 of the North Dakota Constitution to require a portion of the revenue from gasoline and motor fuel excise taxes, equal to at least five dollars for every licensed motorboat in North Dakota, be appropriated annually to a game and fish account to be used for construction, reconstruction, repair, and maintenance of boating facilities, and for boating administration.

## 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.**

***NOTE:*** *The full text of the measure must be inserted here. Example follows.*

**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 this 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 must add their complete residential address or 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 individual circulating the petition.

## QUALIFIED ELECTORS

| Month, Day, Year | 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. | | | |
| 9. | | | |
| 10. | | | |

**NOTE:** The number of signature lines on each page of a petition may vary at the discretion of the sponsoring committee, however the Secretary of State encourages the space reserved for signatures to be at least as large as the example above.

**STATE OF NORTH DAKOTA** **)**
)ss.
**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 SEAL / STAMP)**

_____
(signature of notary)
Notary Public
My commission expires _____

**SAMPLE OF REFERENDUM PETITION**

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

We, the undersigned, being qualified electors request Senate Bill No. 2266, passed by the Fifty-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, Chairman
Address 1
City, ND Zip Code

Name 2
Address 2
City, ND Zip Code

Name 3
Address 3
City, ND Zip Code

Name 4
Address 4
City, ND Zip Code

Name 5
Address 5
City, ND Zip Code

Name 6
Address 6
City, ND Zip Code

Name 7
Address 7
City, ND Zip Code

Name 8
Address 8
City, ND Zip Code

Name 9
Address 9
City, ND Zip Code

Name 10
Address 10
City, ND Zip Code

Name 11
Address 11
City, ND Zip Code

Name 12
Address 12
City, ND Zip Code

Name 13
Address 13
City, ND Zip Code

Name 14
Address 14
City, ND Zip Code

Name 15
Address 15
City, ND Zip Code

Name 16
Address 16
City, ND Zip Code

Name 17
Address 17
City, ND Zip Code

Name 18
Address 18
City, ND Zip Code

Name 19
Address 19
City, ND Zip Code

Name 20
Address 20
City, ND Zip Code

Name 21
Address 21
City, ND Zip Code

Name 22
Address 22
City, ND Zip Code

Name 23
Address 23
City, ND Zip Code

Name 24
Address 24
City, ND Zip Code

Name 25
Address 24
City, ND Zip Code

## PETITION TITLE

***NOTE:*** *Petition title to be drafted by the Secretary of State, approved by the Attorney General, and attached to the petition before circulation. See example of a petition title below.*

This referred measure prohibits a driver from operating a vehicle on the highway unless each front seat occupant is wearing a safety belt. This provision does not require occupants of farm vehicles, implements of husbandry, rural mail carriers while on duty, or vehicles designed to carry eleven or more passengers, to wear safety belts. After December 31, 1993, the driver may be fined up to twenty dollars for a violation only if also lawfully stopped for a different violation.

## 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.**

***NOTE:*** *The full text must be inserted here. Example follows.*

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

**SECTION 1.** A new subsection to section 39-06.1-06 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

For a violation of section 2 of this Act, a fee not to exceed twenty dollars.

**SECTION 2.** A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

Use of safety belts required in certain motor vehicles - Enforcement. Subject to the limitations of this section and section 3 of this Act, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or seat belt in accordance with section 39-21-41.2, to drivers of implements of husbandry, to operators of farm vehicles as defined in subsection 5 of section 39-04-19, to rural mail carriers while on duty delivering mail, or when all front seat safety belts are in use by the occupants. From the effective date of this Act until December 31, 1993, only warning tickets may be issued for a violation of this section.

**SECTION 3.** A new section to chapter 39-21 of the North Dakota Century Code is created and enacted as follows:

**Secondary enforcement.** A peace officer may not issue a citation for a violation of section 2 of this Act unless the officer lawfully stopped or detained the driver of the motor vehicle for another violation. Drivers' license points may not be assessed against any person for violation of section 2 of the Act.

## 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 complete residential address or 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 individual circulating the petition.

## QUALIFIED ELECTORS

| Month, Day, Year | 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. | | | |
| 9. | | | |
| 10. | | | |

- **NOTE:** The number of signature lines on each page of a petition may vary at the discretion of the sponsoring committee, however the Secretary of State encourages the space reserved for signatures to be at least as large as the example above.

**STATE OF NORTH DAKOTA** )
)ss
**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 SEAL / STAMP)** _____
(signature of notary)
Notary Public
My commission expires _____