

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

Michael J. Haugen, Jacob Stutzman,
Trent Barkus, and Brighter Future
Alliance,

Petitioners,

v.

Alvin Jaeger, in his official capacity as
North Dakota Secretary of State and
the Sponsoring Committee of
Measure 3,

Respondents.

Supreme Court No. 20200213

**APPENDIX OF
ALVIN JAEGER, IN HIS OFFICIAL CAPACITY AS NORTH DAKOTA
SECRETARY OF STATE**

State of North Dakota
Wayne Stenehjem
Attorney General

By: Matthew A. Sagsveen
Solicitor General
State Bar ID No. 05613
Office of Attorney General
500 North 9th Street
Bismarck, ND 58501-4509
Telephone (701) 328-3640
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By: David R. Phillips
Assistant Attorney General
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Office of Attorney General
500 North 9th Street
Bismarck, ND 58501-4509
Telephone (701) 328-3640
Facsimile (701) 328-4300
Email drphillips@nd.gov

Attorneys for Respondent Alvin Jaeger.

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STATE OF NORTH DAKOTA

Respondents.

Supreme Court No. 20200213

on April 30, 2020.

[¶6] Attached as Exhibit 4 is a true and correct copy of the letter I sent to Sawicki
on August 11, 2020.

Dated this 19th day of August, 2020.



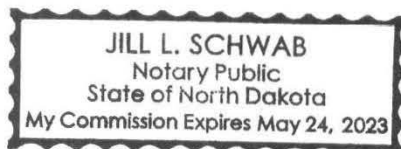
Alvin A. Jaeger
North Dakota Secretary of State

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Subscribed and sworn to before me
this 19th day of August, 2020.



Notary Public



ALVIN A. JAEGER
SECRETARY OF STATE
WEBSITE sos.nd.gov



PHONE (701) 328-2900
EMAIL sos@nd.gov

SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 6, 2020

Carol M Sawicki
Chairperson
Sponsoring Committee
3110 Edgewood Drive N
Fargo ND 58102-1643

Dear Ms. Sawicki,

I hereby acknowledge receipt of your request to review the format of a petition that will be used to obtain signatures of qualified electors to place a constitutional initiative on the ballot for an upcoming election. It is related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

According to Section 16.1-01-09 of the North Dakota Century Code (N.D.C.C.), "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."

That section of law further specifies that, "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."

Based on the timeline stipulated in state law, the review cannot be completed earlier than Friday, March 13, 2020, nor later than Tuesday, March 17, 2020.

The Sponsoring Committee must file a campaign disclosure statement, which is due no later than the date the petition is approved for circulation. See N.D.C.C. § 16.1-08.1-03.1(3).

When the review is complete, you will be notified in writing.

Sincerely,

A handwritten signature in black ink, appearing to read "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State

Cc: Attorney General Wayne Stenehjem



Timeline for Constitutional Initiative Relating to

Related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

(as of March 6, 2020)

Submitted to the Secretary of State for review and approval for circulation	March 6, 2020
Earliest date the law allows Secretary of State to approve the petition title	Friday, March 13, 2020
Latest date by which the Secretary of State must provide the petition title	Tuesday, March 17, 2020
Date that Secretary of State supplied Sponsoring Committee with petition title for petition along with a listing of corrections for the petition's format	To Be Determined
Date that Sponsoring Committee returned petition to Secretary of State for review	To Be Determined
Date that Secretary of State approved petition for circulation	To Be Determined
Deadline for submitting petition signatures to the Secretary of State (120 days before the election at which the measure is to appear on the ballot <u>or</u> one year from the date the petition is approved for circulation)	2020 General Election – Prior to midnight on, July 6, 2020 One year from date petition was approved for circulation – To Be Determined
Number of signatures needed to place measure on ballot.	26,904
Contact person for the sponsoring committee	Carol M Sawicki 3110 Edgewood Drive N Fargo ND 58102-1643 (701) 388-6957 <u>info@northdakotavotersfirst.org</u>

ALVIN A. JAEGER
SECRETARY OF STATE

WEBSITE sos.nd.gov



PHONE (701) 328-2900
EMAIL sos@nd.gov

SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 17, 2020

Carol M Sawicki
Chairperson
Sponsoring Committee
3110 Edgewood Drive N
Fargo ND 58102-1643

Dear Ms. Sawicki,

In accordance with state law, the Secretary of State's office has reviewed the submitted petition received on March 6, 2020, to be used to obtain signatures of qualified electors to place a constitutional initiative on the ballot for an upcoming election. It is related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

N.D.C.C. § 16.1-01-09(1) requires the Secretary of State to draft a short and concise statement, approved by the Attorney General, which fairly represents the measure. The enclosed letter, identified as Appendix A, contains the Attorney General's approved petition title. Insert the petition title into the petition using the identical wording specified in the Attorney General's letter, using the same font style and size used on the submitted petition.

In addition, all corrections identified on Appendix B must be made on the petition.

After the petition title is inserted and corrections made, please submit a proof of the petition to this office for review and final approval. When final approval is granted, the petition may be circulated for signatures.

If you have questions or need additional information, please contact Lee Ann Oliver, Election Specialist, at (701) 328-4146, at (800) 352-0867, option 6, or via e-mail at loliver@nd.gov or me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alvin A. Jaeger".

Alvin A Jaeger
Secretary of State

Enclosures





Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210
www.attorneygeneral.nd.gov

RECEIVED

MAR 17 2020

SEC. OF STATE

March 17, 2020

The Honorable Alvin A. Jaeger
Secretary of State
600 East Boulevard Avenue
Bismarck, ND 58505-0500

Dear Secretary of State Jaeger:

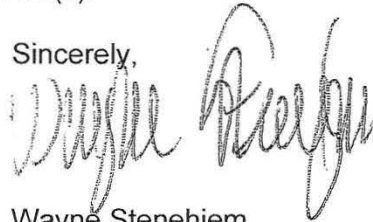
Thank you for your March 13, 2020, letter submitting a proposed petition title for the initiated measure to add a new section to and amend article IV of the North Dakota Constitution. The petition title for this initiated measure should read:

This initiated measure would add a new section to and amend Section 2 of Article IV of the North Dakota Constitution. It would require ballots to be transmitted to qualified military-overseas electors by the sixty-first day before an election. It would require all voting machines to produce a paper record of each vote cast and the Secretary of State to conduct a random audit of election results and issue an audit report within 120 days of an election. It would establish a new process for open primary elections in which all electors would be allowed to vote the ballot regardless of political party affiliation; all candidates for each office would be listed on a single ballot; candidates would be allowed, but not required, to identify their political party; and, regardless of political party identification, the four candidates receiving the most votes would advance to the general election ballot for that office. No other candidates could appear except those nominated through the primary election. It would permit political parties to state on the ballot which candidates they endorse. It would allow voters in general elections to rank their first, second, third, and fourth choices of the candidates for each office and have the votes counted through a defined procedure until a candidate receives a majority of the votes cast for that office. It would require the Ethics Commission to draw legislative senatorial districts by unanimous vote, divide each senatorial district into two legislative house districts, hold eight public hearings on the proposed redistricting plan with two of the hearings held on two different American Indian Reservations, and follow certain criteria for the drawing of legislative districts. It would require the Secretary of State to provide the Ethics Commission with the tools and data necessary to draw the districts and the legislature to provide adequate funds for the duties of the Ethics Commission.

The Honorable Alvin A. Jaeger
March 17, 2020
Page 2

The above petition title is hereby approved for inclusion within the petition for the initiated measure pursuant to N.D.C.C. § 16.1-01-09(1).

Sincerely,

A handwritten signature in dark ink, appearing to read "Wayne Stenehjem", written in a cursive style.

Wayne Stenehjem
Attorney General

APPENDIX B

Corrections to Petition

Related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

1. **Page one:** The name of each sponsor must match his or her signature on the affidavit. The underlined portion of each of the following names must be corrected on the sponsoring committee list.

Linda M Steve
648 Park St
Dickinson ND 58601

Duane J Ehrens
233 West Ave C
Bismarck ND 58501

2. **Page one:** The Sponsoring Committee Affidavit for Rebecca Thiem must be corrected.

The notarial certificate on the affidavit reads, "Subscribed and sworn before me, this ____ day of _____, 2018". When completing the notarial act, the notary did not change the date from 2018 to 2020, as the date on which they executed the notarial certificate.

The options are to have the affidavit corrected by the notary, redo the affidavit with another notary, or remove Rebecca Thiem from the sponsoring committee list.

ALVIN A. JAEGER
SECRETARY OF STATE

WEBSITE sos.nd.gov



PHONE (701) 328-2900
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SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

April 30, 2020

Carol M Sawicki
Chairperson
Sponsoring Committee
3110 Edgewood Drive N
Fargo ND 58102-1643

Dear Ms. Sawicki,

In accordance with state law, the Secretary of State's office completed its review and approved the petition proof provided to this office which is related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

To place a constitutional initiative on the ballot, a sponsoring committee must deliver petitions to the Secretary of State containing the valid signatures of qualified North Dakota electors equal to at least 4% of the resident population of North Dakota (as determined by the most recent federal census). The minimum number of qualified signatures is 26,904.

According to North Dakota Century Code (N.D.C.C.) § 16.1-01-09(7), the signatures to place a measure on the ballot must be obtained within one year after the Secretary of State has approved the petition for circulation. The one-year period will end on Friday, April 30, 2021.

The North Dakota Constitution, Article III, Section 5, stipulates that an initiative petition must be submitted not less than one hundred twenty days before the statewide election at which the measure is placed on the ballot.

If the committee intends to have the measure placed on the ballot for the statewide election to be held on November 3, 2020, enough valid signatures must be submitted to the Secretary of State prior to midnight on Monday, July 6, 2020.

If the committee anticipates they will be submitting petitions to this office after 5:00 p.m., but prior to midnight, on the selected deadline date, please contact this office in advance so that a staff member is present to receive them. Upon receipt, the petitions will be reviewed according to the provisions of N.D.C.C. § 16.1-01-10.

Only qualified North Dakota electors may circulate petitions. The circulator must personally witness the signature applied to the petition by each qualified elector who signs the petition. The petition must remain in the physical possession of the qualified North Dakota circulator even though others (who may not be qualified electors in the State of North Dakota) are accompanying the circulator. A petition left unattended is an improperly circulated petition and is not counted.

A submitted petition will not be counted, if it was not circulated in its entirety as approved by this office. Before circulating, all pages of the petition must be securely fastened in the top left-hand corner.

An affidavit is on the last page of each petition whereby the circulator of the petition is required to swear (or affirm) before a notary public that he or she circulated the petition in the manner required by state law and that he or she witnessed each signature applied to the petition by a qualified elector. A petition is disqualified, if a member of the sponsoring committee, who is a notary, notarizes the signature of the circulator on the affidavit printed at the end of the petition.

EXHIBIT
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Carol M Sawicki
April 30, 2020
Page 2

Improper signing and circulating practices may result in the disqualification of an entire individual petition. In addition, criminal penalties may apply. See N.D.C.C. § 16.1-01-12(1)(h)(i)(j)(o), N.D.C.C. § 16.1-01-12(2) and (3).

The law allows a circulator to be paid a salary and to be reimbursed for expenses. It is illegal, however, to pay a circulator based on the number of signatures obtained by that circulator. If the sponsoring committee does pay or offers to pay a circulator, N.D.C.C. § 16.1-01-12(1)(j) requires the sponsoring committee to notify the Secretary of State of its intentions prior to submitting any petitions to our office. For filing purposes, a form titled, Sponsoring Committee Statement of Intent of Remuneration (SFN 11516), is enclosed.

The sponsoring committee is required by N.D.C.C. § 16.1-01-12(1)(j) to comply with the campaign contribution reporting requirements in N.D.C.C., Chapter 16.1-08.1.

At the time when a Sponsoring Committee submits signed petitions to the Secretary of State, it will be required to comply with the following subsection of N.D.C.C. § 16.1-08.1-03.1(3).

"An initiative and referendum sponsoring committee also shall file a disclosure statement by the date the secretary of state approves the petition for circulation, and shall file an additional statement on the date the petitions containing the required number of signatures are submitted to the secretary of state for review. The statements required under this subsection must be in the same form as the year-end statements under section 16.1-08.1-02.4."

If you have questions or need additional information, please contact either Lee Ann Oliver, Election Specialist, at (701) 328-4146, (800) 352-0867, ext. 328-4146, through e-mail at loliver@nd.gov or me.

Sincerely,

Alvin A. Jaeger
Secretary of State

Enclosures

Petition as Approved for Circulation
Petition Timeline
Sponsoring Committee Statement Intent of Remuneration SFN 11516

Timeline for Constitutional Initiative Relating to

Related to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

(as of April 30, 2020)

Submitted to the Secretary of State for review and approval for circulation	March 6, 2020
Earliest date the law allows Secretary of State to approve the petition title	Friday, March 13, 2020
Latest date by which the Secretary of State must provide the petition title	Tuesday, March 17, 2020
Date that Secretary of State supplied Sponsoring Committee with petition title for petition along with a listing of corrections for the petition's format	Tuesday, March 17, 2020
Date that Sponsoring Committee returned petition to Secretary of State for review	Wednesday, April 29, 2020
Date that Secretary of State approved petition for circulation	Thursday, April 30, 2020
Deadline for submitting petition signatures to the Secretary of State (120 days before the election at which the measure is to appear on the ballot <u>or</u> one year from the date the petition is approved for circulation)	2020 General Election – Prior to midnight on, July 6, 2020 One year from date petition was approved for circulation – April 30, 2021
Number of signatures needed to place measure on ballot.	26,904
Contact person for the sponsoring committee	Carol M Sawicki 3110 Edgewood Drive N Fargo ND 58102-1643 (701) 388-6957 info@northdakotavotersfirst.org

ALVIN A. JAEGER
SECRETARY OF STATE

WEBSITE sos.nd.gov



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EMAIL sos@nd.gov

SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

August 11, 2020

Carol M Sawicki
Chairperson
Sponsoring Committee
3110 Edgewood Drive N
Fargo ND 58102-1643

Dear Ms. Sawicki,

On July 6, 2020, and prior to the 120-day deadline before the November 3, 2020, statewide election, as prescribed in the Constitution of North Dakota, Article III, Section 5, the sponsoring committee submitted petitions to the Secretary of State to place an initiated constitutional measure on the ballot. The measure pertains to military and overseas voters, election audits, open primaries, instant runoff elections, legislative redistricting, and subdivision of House legislative districts.

As provided for in the Constitution of North Dakota, Article III, Section 9, a constitutional initiative is placed on the ballot if petitions have been submitted to the Secretary of State containing the signatures of qualified North Dakota "electors equal to four percent of the resident population of the state at the last federal decennial census". According to the most recent federal census, the number of valid signatures required is 26,904.

As further prescribed under the provisions of the state's constitution and its statutes, this office completed its review yesterday of the submitted petitions within the period prescribed by state law (N.D.C.C. § 16.1-01-10). Based upon the results of that review, it was determined that the sponsoring committee submitted petitions containing the valid signatures of qualified North Dakota electors exceeding the required number. See enclosed tally form.

Therefore, the measure will be placed on the ballot for the November 3, 2020, election. According to the provisions of N.D.C.C. § 16.1-06-09, it will be identified as Initiated Constitutional Measure No. 3.

If you have any questions or need additional information, please contact the Secretary of State's Elections Division at (701) 328-4146, or (800) 352-0867, ext. 328-4146, or via e-mail at soselect@nd.gov.

Sincerely,


Alvin A. Jaeger
Secretary of State

EXHIBIT
4

Total Number of Signatures Required by North Dakota Constitution	26,904
Estimated Number of Signatures Submitted by Sponsoring Committee on June 29, 2020	36,708
Actual Number of Signatures Submitted by Sponsoring Committee on June 29, 2020	36,824
Summary of Rejected Signatures	
Petition Not Circulated in its Entirety	20
Inadequate Signature (Examples of inadequate signatures are when a notary or circulator sign their own petition, the signature doesn't include a first or last name, a person signed the petition twice, signatures were obtained before the approval date of the petition or after the notarization date of the document, a person signed for another person, or the signer failed to print their name as required by law)	1808
Out-of-State Address or missing both city and zip code	242
No Date (In the beginning or end of the petition)	32
Notary Errors (Examples of notary errors are when a notary forgets to stamp the document, when the notary does not complete the entire notary venue, when the notary forgets to sign the document or when the notary writes in their wrong expiration date)	55
Circulator Errors (Example is when a circulator fails to fill in their complete residential address)	914
Address Omissions	1282
Total Number of Rejected Signatures	4,286
Total Number of Signatures Accepted	32,538
Difference Between Required Number of Signatures and Accepted Number of Signatures	5,634

- 841 signatures were disallowed on 25 petitions because the circulator was not a qualified North Dakota elector

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