

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

**SECTION 1.** A new article of the Constitution of the State of North Dakota is created and enacted as follows:

**Section 1. Help Our Heroes Vote.**

In order to provide military-overseas voters with ample opportunity to vote, on or before the business day preceding the sixtieth day before an election, the secretary of state shall transmit ballots and balloting materials to all covered voters who submit a valid military-overseas ballot application. This shall apply for all elections covered in N.D.C.C. section 16.1-07-19.

**Section 2. Secure Our Elections.**

All voting machines must produce a paper record of each vote cast. Within sixty days of an election, the secretary of state shall audit all results of one or more randomly selected precinct in each legislative district. Within 120 days of an election, the secretary of state shall publish a report containing the results of the audit conducted under this section.

**Section 3. Increase Voter Choice.**

**A. Open Primaries.**

Open primaries shall be used for all primary elections for statewide, legislative assembly, and United States congressional offices.

All electors, regardless of party affiliation or lack of affiliation, shall be permitted to participate and vote in an open primary.

All candidates for each office in an open primary shall be listed on a single primary ballot.

Candidates in an open primary may choose to have their political party affiliation indicated on the ballot. Designation of a party affiliation by a candidate shall not constitute or imply the nomination, endorsement, or selection of the candidate by the political party designated.

Political parties may choose to have their candidate endorsements indicated on the ballot. Nothing in this section shall be interpreted as forcing a party to endorse a candidate or to prohibit a political party from nominating, endorsing, supporting, or opposing any candidate.

The four candidates for each office receiving the greatest numbers of votes cast in an open primary shall then appear on the general election ballot for that office. No other candidates shall appear on the general election ballot for an office to which this section applies. Should only four or fewer candidates for an office qualify for the open primary, no primary election will be held for that office and those candidates shall automatically appear on the general election ballot.

## **B. Instant Runoffs.**

Instant runoffs shall be used for all general elections for statewide, legislative assembly, and United States congressional office. The general election ballot shall therefore provide each elector the opportunity to mark one first-choice candidate, as well as one second-choice, one third-choice, and one fourth-choice candidate, should so many candidates qualify for the general election ballot. Marking more than a first-choice candidate shall not be required. If an elector does not mark any choices for an office, that shall not invalidate any other votes cast on that elector's ballot.

Under an instant runoff, votes shall first be counted based on first-choice rankings. If a candidate receives a majority of votes, they shall be declared the winner. If no candidate has received a majority of votes, the candidate with the fewest votes shall be eliminated, and any vote for that candidate shall be counted instead for the elector's next choice candidate, should a next choice be marked. This instant runoff process shall repeat until a candidate receives a majority of votes, when that candidate shall be declared the winner.

As used in this Constitution related to determining the winner of an election for statewide, legislative assembly, or United States congressional office, the word "vote" in the phrase "highest number of votes" refers to votes received by candidates at the conclusion of the instant runoff process described above.

## **Section 4. General Provisions.**

1. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate, safeguard, or expand, but not to hamper, restrict, or impair, this article. This article shall take effect thirty days after approval.

2. If any provision of this article is held to be invalid, either on its face or as applied to any person, entity, or circumstance, the remaining provisions, and the application thereof to any person, entity, or circumstance other than those to which it is held invalid, shall not be affected thereby.

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**SECTION 2.** Article IV, Section 2 is amended as follows:

**Section 2. Fair Legislative Districts.** The intent of this section is to ensure that every North Dakota voter has the opportunity to cast a vote in a fairly and impartially drawn legislative district, and that the process of drawing legislative districts is open and transparent. The legislative assembly shall fix the number of senators and representatives, ~~and~~ After each decennial census of the United States, the Ethics Commission shall by unanimous vote divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The Ethics Commission shall appoint by unanimous vote impartial experts to assist the Ethics Commission in these duties. The Secretary of State shall promptly provide the Ethics Commission with data and tools necessary to perform duties related to the drawing of districts. The districts thus ascertained and determined after the 1990 federal decennial census shall continue until the adjournment of the first regular session after each federal decennial census, or until changed by law.

## **A. All Voters Equal**

The legislative assembly and Ethics Commission shall guarantee, as nearly as is practicable, that every elector is equal to every other elector in the power to cast ballots for legislative candidates. A senator ~~and at least two representatives~~ must be apportioned to each senatorial district. Each senatorial district shall be subdivided into two House of Representatives districts of as equal population as is practicable, from which one representative shall each be elected ~~and be elected at large or from subdistricts from those districts.~~ The legislative assembly Ethics Commission may combine two senatorial districts only when a single member

senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of a single member senatorial district, and may provide for the election of senators ~~at large~~ and representatives ~~at large~~ or from subdistricts from those districts.

### **B. Transparency and Public Comment for Drawing Legislative Districts.**

The Ethics Commission and commissioners shall conduct all business related to the drawing of districts in meetings open to the public, and shall hold eight public hearings throughout the state prior to finalizing any districts, including at least two meetings on two different American Indian Reservations. The public shall have opportunities to view, present testimony, and participate in all Ethics Commission hearings pertaining to the drawing of districts. All Ethics Commission materials, including all internal and external communications, pertaining to the drawing of districts shall be public records.

### **C. Criteria for Drawing Legislative Districts**

The Ethics Commission shall use the criteria below, in priority of the order listed, to draw districts:

1. Districts shall comply with the United States Constitution and applicable federal law;
2. Districts shall have as equal a number of inhabitants as is practicable;
3. Districts shall be geographically contiguous;
4. Districts shall not be not drawn with the intent or result of denying or abridging the equal opportunity of tribal, racial, or language minorities to participate in the political process or elect representatives of their choice, whether by themselves or voting in concert with other persons;
5. Districts shall not be drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party, and the place of residence of any incumbent or political candidate shall not be considered when drawing districts;
6. Districts, when considered on a statewide basis, shall not unduly advantage or disadvantage a political party;
7. Districts shall minimize, to the extent practicable, the division of communities of interest, meaning an area with recognized similarities of interests, including but not limited to tribal, racial, ethnic, economic, social, cultural, geographic, or historic identities, but not including common relationships with political parties or political candidates;
8. Districts shall not unnecessarily divide county, city, township, or Tribal boundaries;
9. Districts shall be reasonably compact;
10. Districts shall, to the extent practicable and after complying with the requirements above, maximize the number of politically competitive districts.

Ethics Commission approval of the drawing of new districts must be by unanimous vote. Upon unanimous approval of the Ethics Commission, the districts thus drawn shall become effective.

### **D. General Provisions**

1. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate, safeguard, or expand, but not to hamper, restrict, or impair, this article. This article shall take effect thirty days after approval.

2. If any provision of this article is held to be invalid, either on its face or as applied to any person, entity, or circumstance, the remaining provisions, and the application thereof to any person, entity, or circumstance other than those to which it is held invalid, shall not be affected thereby.

3. The legislative assembly shall provide adequate funds for the proper carrying out of the functions and duties of the Ethics Commission.