NORTH Dakota | Governor Doug Burgum

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EXECUTIVE ORDER 2020-13.1

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, with the guidance and assistance of the leadership of the Unified Command Center and the State Health Officer, the State is actively responding to this crisis; significant efforts have been made by all state agencies and offices, as well as North Dakota citizens, to exercise preventative measures to control the spread of COVID-19, including social distancing and wearing face coverings when social distancing is not possible and frequent hand-washing; and,

WHEREAS, Executive Order 2020-13 strongly encouraged all North Dakota counties to conduct mail ballot elections for the June, 2020 election; as a result, a record 159,397 mail ballots were cast by North Dakota citizens in an election that was conducted across the state with efficiency and integrity; and,

WHEREAS, North Dakota counties preparing for the November 2020 general election report record numbers of applications for absentee and mail ballots as well as record numbers of voters returning completed absentee and mail ballots; and,

WHEREAS, to date, the Secretary of State reports 205,791 absentee and mail ballots for the 2020 general election have been sent out to eligible voters, which is more than double the absentee and mail ballots cast during the 2018 general election and more than a 130% increase over the absentee and mail ballots cast during the 2016 general election; and,

WHEREAS, every county must manually pre-process each absentee and mail ballot prior to removing the ballot from the secrecy envelope, to verify the voter's signature, eligibility and address to ensure that each ballot has come from a duly qualified elector; and,

WHEREAS, after these steps to ensure each ballot's integrity, the verified ballots must be manually deposited into a secure ballot box; and,

WHEREAS, these processes are prescribed by NDCC § 16.1-07-12; and,

WHEREAS, many counties have traditionally relied upon civic-minded retired citizens to serve as election board workers, and as a result of concerns related to the COVID-19 pandemic, this pool of potential election board workers has decreased in size; and,

WHEREAS, across the state, counties are experiencing a record increase in voting by absentee and mail ballot, and have expressed concerns related to the time allowed to accurately complete the multi-step, manual process to verify and secure these ballots as well as COVID-related challenges of hiring and training sufficient numbers of election workers; and,

WHEREAS, to ensure election integrity and avoid a significant delay in reporting election results after the polls close on election day, the state county auditors association, on behalf of North Dakota's 53 county auditors, has requested additional time to conduct the initial verification and securing of absentee and mail ballots; and,

WHEREAS, existing state law only allows local election boards to process absentee and mail ballots beginning the day before and the day of election day, severely restricting the amount of time needed to ensure safe and secure election integrity in a year of record absentee and mail ballots.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the Secretary of State, hereby orders the following:

1. The provision in NDCC § 16.1-07-12 allowing county absentee counting boards to open and conduct the manual processing of absentee ballots beginning only the day before and the day of the election is hereby suspended.

2. Effective 8:00 a.m. Thursday, October 29, 2020, county election boards may begin to open and conduct the manual processing of absentee and mail ballot, as prescribed by law, including verification of voter signatures, verifying voters are duly qualified electors of their precinct, and depositing the verified ballot into the secured ballot box.

3. Nothing in this Executive Order modifies the requirements in NDCC § 16.1-07-12 governing tallying (counting) of absentee and mail ballots.

4. **Local election boards shall not generate vote totals or election results until after the polls have closed on election day.**

This order is issued on the following bases and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to N.D.C.C. Chapter 37-17.1.

3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.

This order will take effect at 8:00 a.m. on Thursday, October 29, 2020 and remain in effect until polls close statewide on Tuesday, November 3, 2020.

Executed at Bismarck, North Dakota, this 24th day of October, 2020.

Doug Burgum
Governor

ATTEST:

Al Jaeger
Secretary of State