

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

SENATE BILL NO. 2151
(Senators W. Stenehjem, Andrist, Klein)
(Representatives DeKrey, Delmore, Kretschmar)

AN ACT to amend and reenact sections 16.1-07-01, 16.1-07-05, 16.1-07-06, and 16.1-07-08 of the North Dakota Century Code, relating to an elector's eligibility to vote by absentee ballot; and to repeal section 16.1-07-02 of the North Dakota Century Code, relating to voting by absentee ballot.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-07-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-01. Absent voter - Who may vote.

1. Any qualified elector of this state, ~~including an individual who, at any general, special, or primary state election, at any county election, or at any city or school district election, is absent from the city, township, or consolidated voting precinct in which he is an elector, is~~ in the armed forces of the United States, is in the merchant marine of the United States, is ~~physically disabled~~, or is a United States citizen living outside the United States who resided in this state immediately prior to ~~his~~ the individual's departure from the United States, may vote an absent voter's ballot at ~~that~~ any general, special, or primary state election, any county election, or any city or school district election.
2. A qualified elector who is a citizen of the United States and lives outside the United States may vote absentee in this state pursuant to this chapter if ~~he~~ the individual:
 - a. Does not maintain a domicile;
 - b. Is not registered to vote;
 - c. Is not voting in any other state, territory, or possession of the United States; and
 - d. Possesses a valid passport or card of identity and registration issued under the authority of the secretary of state of the United States.

Such an elector may vote only in federal elections, which means any election held solely or in part for the purpose of electing or nominating any candidate for the office of president, vice president, presidential elector, member of the United States senate, or member of the United States house of representatives.

3. An elector who votes by absentee ballot may not vote in person at the same election.

SECTION 2. AMENDMENT. Section 16.1-07-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-07-05. Time for applying for ballot. At any time in an election year, any qualified elector ~~expecting to be absent on election day as provided in section 16.1-07-04~~ may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by facsimile or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form for an absent voter's ballot for a general, special, primary, or county election from either the county auditor or a city auditor. The application form, for a member of the United States armed forces or the United States merchant marine or for a qualified elector living outside the United

States, must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application. An applicant who is a member of the United States armed forces or the United States merchant marine or is a qualified elector living outside the United States, may apply for and vote by facsimile if otherwise qualified to apply for and vote by absentee ballot. An auditor, clerk, or business manager may send and receive facsimile absentee ballot applications and facsimile absentee ballots to ~~these electors~~ any individual eligible to apply for and vote by facsimile under this section. No auditor or clerk may issue ballots for absentee voters on the day of the election.

SECTION 3. AMENDMENT. Section 16.1-07-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-07-06. Application form.

1. Application for an absent voter's ballot must be made on a blank furnished by the proper officer of the county, city, or school district in which the applicant is an elector, or on any blank containing the following information:
 - a. The applicant's name.
 - b. The applicant's voting address.
 - c. The applicant's mailing address.
 - d. The applicant's current home telephone number.
 - e. The election for which the ballot is being requested.
 - f. ~~The applicant's reason for voting absentee as specified in section 16.1-07-01.~~
 - g. The date of the request.
 - ~~h. g.~~ An affirmation that the applicant has resided in the precinct for at least thirty days.
 - ~~i. h.~~ The applicant's signature.
2. A qualified elector absent from the state is not required to file an application for an absent voter's ballot for any statewide election if either of the following apply:
 - a. The elector is a member, or spouse or dependent of a member, of the United States armed forces or merchant marine.
 - b. The elector is a United States citizen living outside the United States.

If the qualified elector furnishes the county auditor with a current mailing address and the elector's local residence or precinct, the county auditor shall mail to the qualified elector a ballot with a return envelope and instructions for voting for any statewide election in that calendar year.

SECTION 4. AMENDMENT. Section 16.1-07-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-07-08. Delivering ballots - Envelope accompanying - Statement on envelope - Inability of elector to sign name.

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name

before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.

2. If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and an envelope must be enclosed with the ballot or ballots. The front of the envelope must bear the official title and post-office address of the officer supplying the voter with the ballot, and upon the other side a printed statement in substantially the following form:

State of _____)
) ss.

County of _____)

I, _____, under penalty of possible criminal prosecution for making a false statement, do solemnly swear that I am a resident of the township of _____, or of the _____ precinct of the _____ ward in the city of _____, residing at _____ in said county, county of _____ and state of North Dakota, and entitled to vote in such precinct at the next election; that I expect to be absent from the precinct of my residence on the day of the election or that by reason of physical disability I am unable to attend at the polling place for the election, and that I will have no opportunity to vote in person on that day.

Precinct _____

Name _____

Residential Address _____

City _____ ND Zip Code _____

Under penalty of possible criminal prosecution for making a false statement, I swear that the above residential address is my address for voting purposes, that I have resided in my precinct for at least thirty days, and this is the only ballot I will cast in this election.

Applicant's Signature _____

Date _____

If the absent voter is unable to sign the voter's name, the voter shall mark (X) that statement in the presence of a disinterested person. The disinterested person shall print the name of the person marking the X below the X, and shall sign that person's own name following the printed name with the notation "witness to the mark".

SECTION 5. REPEAL. Section 16.1-07-02 of the North Dakota Century Code is repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2151.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 87 Nays 4 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State