

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1157

Introduced by

Judiciary Committee

(At the request of the Secretary of State)

1 A BILL for an Act to create and enact two new sections to chapter 16.1-11.1 and a new
2 subdivision to subsection 1 of section 28-32-01 of the North Dakota Century Code, relating to
3 special statewide elections being conducted by mail and agents receiving mail ballots on behalf
4 of electors; and to amend and reenact sections 16.1-11.1-01, 16.1-11.1-02, 16.1-11.1-04, and
5 16.1-11.1-06 of the North Dakota Century Code, relating to mail ballot elections for general and
6 special elections and mail ballot procedures.

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

8 **SECTION 1. AMENDMENT.** Section 16.1-11.1-01 of the 1995 Supplement to the
9 North Dakota Century Code is amended and reenacted as follows:

10 **16.1-11.1-01. Counties may conduct mail ballot elections - Polling places -**
11 **Records.** The board of county commissioners of a county may conduct a primary ~~election,~~
12 general, and special elections by mail ballot. The mail ballot election must include city elections
13 administered by the county auditor, and may include any other election administered by the
14 county auditor pursuant to an agreement with the governing body of a political subdivision
15 within the county. The board shall designate at least one polling place in the county to be open
16 on the day of the election for voting in the usual manner. The county auditor shall place a
17 notice at all polling places in the county used at the last statewide election which states the
18 location of the polling places open for the primary election. The county auditor shall keep a
19 record of each mail ballot provided to and returned by qualified electors and provide to the
20 election board at each polling place open on the day of the election a list of every person who
21 applied for and returned a mail ballot.

22 **SECTION 2.** A new section to chapter 16.1-11.1 of the North Dakota Century Code is
23 created and enacted as follows:

Special statewide elections may be conducted by mail. Special statewide elections called by the governor according to this title may be conducted pursuant to the mail ballot election procedures established by this chapter. Notwithstanding any other provision of law, the secretary of state may adopt rules relating to special statewide elections called by the governor according to this title, including rules providing for the reduction of poll workers, reduction of poll hours, reduction of precincts, arrangement of names of candidates on the official ballot, publication of the sample ballot, and open voting within cities or counties.

SECTION 3. AMENDMENT. Section 16.1-11.1-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-02. Application for mail ballots. The county auditor shall mail an application form for a mail ballot to each person listed in the pollbooks of the county from the last regular statewide election on one date no sooner than the ~~forty-fifth~~ fortieth day before the election and no later than the thirtieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the following form:

I, _____, am or will be a duly qualified elector

(please print name)

and to my best knowledge and belief and am or will be entitled to vote at the ~~primary~~ election. I hereby apply for an official mail ballot to be voted by me at that election. I understand that it is a criminal offense to knowingly vote when not qualified to do so.

I have or will have resided at the ~~below~~ following North Dakota address for at least thirty days before the election. _____

(North Dakota Address of Residency)

_____, North Dakota _____

(City)

(Zip Code)

My phone number is _____.

Dated this _____ day of _____, 19__.

(Signature of Applicant)

(Present Mailing Address If Different From
North Dakota Address of Residency Listed Above)

_____, North Dakota _____

(City) (State) (Zip Code)

SECTION 4. AMENDMENT. Section 16.1-11.1-04 of the 1995 Supplement to the
North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-04. Voting by electors. Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope, and comply with the instructions provided with the ballot. The elector may return the completed ballot to the county auditor by mail or, before six p.m. on the day of the election, to any other place of deposit designated by the auditor. If the elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be postmarked no later than the day before the election. An elector who is recorded as returning a mail ballot may not be allowed to vote in person on the day of the election. An elector who is recorded as receiving but not returning a mail ballot may vote in person on the day of the election but only after signing a sworn statement that the elector has not voted in the election by mail.

SECTION 5. A new section to chapter 16.1-11.1 of the North Dakota Century Code is created and enacted as follows:

Delivering ballots - Authorization of agents to receive ballots. The county auditor shall personally deliver the ballot to each applicant or applicant's agent who returns a properly completed application form to the auditor by four p.m. on the day before the election. A person acting as an agent may not, at the time, be a candidate for any office to be voted upon by the applicant. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor authorization in writing from the applicant to receive the ballot. If the applicant is unable to sign the applicant's name, the applicant shall mark (X) on the written authorization in the presence of a disinterested person. The disinterested person shall print the name of the applicant below the X and shall sign the name of the disinterested person following the printed name of the applicant with the notation "witness to the mark". A person may not receive compensation, including money, goods, or services, for acting as an agent for an applicant, nor may a person act as an agent for more than four applicants in any one election.

1 **SECTION 6. AMENDMENT.** Section 16.1-11.1-06 of the 1995 Supplement to the
2 North Dakota Century Code is amended and reenacted as follows:

3 **16.1-11.1-06. Canvass of votes - Special election board.** The county auditor shall
4 appoint a special election board for the purpose of counting mail ballots. The board may ~~not~~
5 begin counting ~~the ballots until six p.m.~~ cast prior to the day of the election at the same hour
6 the polls open on the day of the election. The county auditor shall adopt procedures to ensure
7 that election results are not publicly disclosed until after all the polls close in the county on the
8 day of the election. A county conducting a mail ballot election constitutes one voting area, and
9 ballots need not be sorted according to precinct or ward unless necessary for the administration
10 of the election.

11 **SECTION 7.** A new subdivision to subsection 1 of section 28-32-01 of the 1995
12 Supplement to the North Dakota Century Code is created and enacted as follows:

13 The secretary of state with respect to rules adopted for the conduct of special
14 statewide elections under section 2 of this Act.