

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2311

Introduced by

Senators St. Aubyn, Freborg

Representatives Bernstein, Nottestad, Svedjan

1 A BILL for an Act to provide for registration of a qualified elector to vote in any statewide
2 special, primary, or general election; to amend and reenact section 11-13-16, subsection 2 of
3 section 15-28-03, subsection 2 of section 16.1-01-01, subsection 3 of section 16.1-05-02,
4 subsection 3 of section 16.1-05-04, subsection 1 of section 16.1-05-06, subsection 2 of section
5 16.1-06-16, sections 16.1-06-21, 16.1-07-12, 16.1-11-31, 16.1-11-32, 16.1-11.1-02, 16.1-15-02,
6 16.1-15-06, 16.1-15-08, 16.1-15-11, 21-03-10, 40-21-09, and 40-21-13 of the North Dakota
7 Century Code, relating to elector registers; and to provide a penalty.

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

9 **SECTION 1. AMENDMENT.** Section 11-13-16 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **11-13-16. When county auditor may call special election.** Whenever the board of
12 county commissioners fails or refuses to call a special election required by any law of this state,
13 the county auditor may provide for and call ~~such~~ the election upon the petition of a majority of
14 the qualified electors of the county as determined by the ~~poll list of the last preceding general~~
15 ~~election~~ elector register.

16 **SECTION 2. AMENDMENT.** Subsection 2 of section 15-28-03 of the 1997 Supplement
17 to the North Dakota Century Code is amended and reenacted as follows:

18 2. The annual election provided for in this section may, upon resolution of the school
19 board, be held in conjunction with the regularly scheduled city election, established
20 by state law or established pursuant to the home rule powers of the city, held in a
21 city located wholly or partially within that school district. The school board may
22 enter into an agreement with the governing body of the city concerning the sharing
23 of election personnel, the printing of election materials, the use of ~~one set of~~
24 ~~pollbooks~~ elector registers, and the apportioning of election expenses. ~~If only one~~

~~set of pollbooks is used, the pollbook must contain a reference indicating the voter's eligibility to vote in the city or school board election, or both.~~ References in this chapter to the date of school board elections, insofar as they relate to a school board that holds its elections in conjunction with a city, are deemed to mean or to refer to the date of the applicable city election.

SECTION 3. AMENDMENT. Subsection 2 of section 16.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. In addition to other duties provided elsewhere by law, the secretary of state shall:
 - a. Develop and implement training programs for all election officials in the state.
 - b. Prepare information for voters on voting procedures.
 - c. Publish and distribute to each county a political calendar, a manual on election procedures, and a map of all election districts for state and national office in that county.
 - d. Convene an annual state election conference of county auditors to discuss uniform implementation of state election policies.
 - e. Prescribe the form of all ballots and the form and wording of ballots on state referendum questions, issues, and constitutional amendments.
 - f. Investigate nonperformance of duties or violations of election laws by election officers.
 - g. Require such reports from county auditors on election matters as ~~deemed the~~ secretary of state determines necessary.
 - h. Certify results of statewide elections.
 - i. Establish and carry out accounting procedures designed to reflect all election expenditures incurred by the state.
 - j. Prepare and publish biennial reports on the conduct and costs of voting in the state, including a tabulation of election returns and such other information and statistics as ~~deemed the~~ secretary of state may determine appropriate.
 - k. Establish standards for all election machinery, locations, and supplies, including ~~but not limited to,~~ ballots, wrappers, seals, stamps, ballot boxes, ~~pollbooks~~ elector registers, tally sheets, reports, voting machines, electronic voting systems, and voting places.

- I. Prescribe the order in which each political subdivision will appear on a primary election ballot.

SECTION 4. Registration of electors. Every qualified elector must be registered in the election precinct in which that elector resides to be entitled to vote at any statewide special, primary, or general election. A qualified elector may register by mail by submitting a completed registration form to the county auditor at any time except during the thirty days before any statewide special, primary, or general election. Except during the thirty days before a statewide election, a qualified elector may register to vote when applying for or renewing a motor vehicle operator's license, when providing a notice of change of name or address with respect to a motor vehicle operator's license, or when applying for or receiving public assistance. A qualified elector may register in person at the office of the county auditor by completing a registration form at any time except during the thirty days before a statewide special, primary, or general election. If a qualified elector applies to the county auditor for an absentee ballot, the elector may request a registration form and may complete and submit the form with the absentee ballot if the registration form is submitted by mail within thirty days of the election. Upon receipt of a registration form, properly filled out and signed by the applicant, the county auditor shall register the person as a qualified elector in the elector register. Subject to sections 8 and 9 of this Act, the registration of a qualified elector is permanent.

SECTION 5. County auditors to supervise qualified elector registration. The county auditor of each county is responsible for and shall supervise the registration of qualified electors within the county. The county auditor shall maintain a complete elector register of all registered qualified electors within the county by precinct.

SECTION 6. County auditor may appoint deputy registrars. The county auditor may appoint deputy registrars for the purpose of assisting with the registration of qualified electors.

SECTION 7. Forms for registration to be prescribed by secretary of state. The secretary of state shall prescribe the forms to be used for registration of qualified electors which must include the qualified elector's name, address, date of birth, last place of registration, and any other information the secretary of state determines to be necessary to assure accurate and reliable qualified elector registration. The director of the department of transportation shall cooperate with the secretary of state to develop voter registration forms to be used with motor

1 vehicle operator's license applications and renewals and change of name and address
2 requests. No designation of political party affiliation may be required to be noted or indicated
3 on the registration form. The secretary of state shall also prescribe the forms to be used for
4 deletion of elector registers and the form and type of elector registers to be maintained by the
5 county auditors.

6 **SECTION 8. Transfer of registration.**

- 7 1. When an elector changes residence from one precinct to another within the county,
8 the county auditor, upon application of the elector, shall transfer the elector's
9 registration record to the proper precinct.
- 10 2. When an elector changes residence from one county to another county, the county
11 auditor of the county from which the elector moved, upon application of the elector,
12 shall transfer the elector's registration record to the county auditor of the elector's
13 county for transfer to the proper precinct.
- 14 3. When a county auditor receives a registration form that indicates that the elector
15 was previously registered in another county, that county auditor shall notify the
16 county auditor of the county in which the elector was previously registered so that
17 the name of the elector may be removed from the register in that county.
- 18 4. When the boundaries of a precinct are changed so as to place a registered elector
19 in a new or different precinct, the county auditor shall transfer the elector's
20 registration record to the proper precinct and mail the elector a notice of the
21 change.
- 22 5. A qualified elector whose name has been changed shall indicate the change at the
23 precinct on election day by signing an oath on a form supplied by the county
24 auditor, indicating the change. The inspector of elections or one of the judges of
25 election appointed by the inspector shall return the oath to the county auditor. The
26 county auditor shall retain the oath in the records of the auditor.

27 **SECTION 9. Removal of electors from registers.**

- 28 1. The county auditor shall remove from the elector register the name of any elector:
29 a. Who is deceased or who is no longer qualified to vote in the precinct where
30 currently registered. Except for the deletion of the name of a deceased

individual, the county auditor shall notify the elector of the deletion and the reason therefor within thirty days following the deletion.

b. Who requests, in writing, removal from the register.

2. The county auditor may not remove a qualified elector's name from the elector register during the period beginning sixty days before any statewide special, primary, or general election and ending on the day of election.

3. Any qualified elector whose name has been removed in accordance with this section may again register to vote in accordance with sections 4 and 8.

SECTION 10. Access to registration records - Penalty. The county auditor shall permit any person, at all reasonable hours and without any fee, to inspect or make copies of any registration record. Upon request, the county auditor shall furnish to any person a copy of the registration records upon payment of the cost of providing the copy. Any person who uses elector registers, or elector lists compiled therefrom, for any purpose other than election or partisan political purposes is guilty of a class B misdemeanor.

SECTION 11. AMENDMENT. Subsection 3 of section 16.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~Prior to~~ Before assuming their duties, all members of the election board and the poll clerks severally shall take and subscribe an oath in substantially the following form:

I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk (as the case may be) according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

The oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or election judges shall administer the oath to each other and to the poll clerks. The person administering the oath shall cause an entry thereof to be made and subscribed by that person and prefixed to each ~~pollbook~~ elector register.

SECTION 12. AMENDMENT. Subsection 3 of section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

- 1 3. The election inspector shall assign the poll clerks, an equal number from each
2 political party represented on the election board, to perform the function of
3 maintaining the ~~pollbooks~~ elector registers. The designated poll clerks shall
4 maintain the ~~pollbooks~~. ~~Each pollbook must contain the name and address of~~
5 ~~each person voting at the precinct and must be arranged~~ elector registers in the
6 ~~form and~~ manner prescribed by the secretary of state.

7 **SECTION 13. AMENDMENT.** Subsection 1 of section 16.1-05-06 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. One poll challenger appointed by the district chairman of each political party
10 represented on the election board is entitled to be in attendance at each polling
11 place. Individual poll challengers may be replaced at any time during the hours of
12 voting, but no more than one poll challenger from each political party is entitled to
13 be in attendance at each polling place at any one time. ~~If The fact that a person is~~
14 a registered elector constitutes prima facie evidence of the right to vote and if any
15 person offering to vote is challenged by a poll challenger or by a member of the
16 election board, the challenged person, unless the challenge is withdrawn, shall
17 stand aside and may not vote unless the challenged person executes an affidavit,
18 acknowledged before the election inspector, that the challenged person is a legally
19 qualified elector of the precinct. The affidavit must include the name and address
20 of the affiant and the address of the affiant at the time the affiant last voted.
21 Written notice of the penalty for making a false affidavit and that the county auditor
22 will verify the affidavits must be prominently displayed at the polling place in a form
23 prescribed by the secretary of state. Any person who falsely swears in order to
24 vote is guilty of an offense and must be punished pursuant to chapter 16.1-01. The
25 county auditor shall verify randomly at least ten percent of the affidavits signed in
26 the county and shall report all violations to the state's attorney.

27 **SECTION 14. AMENDMENT.** Subsection 2 of section 16.1-06-16 of the North Dakota
28 Century Code is amended and reenacted as follows:

- 29 2. Deliver to the inspector in each precinct at least three days but not more than
30 fifteen days before the election the number of ballots, ~~pollbooks~~, blanks for election
31 returns with the proper captions if ballots are to be hand-counted, forms of oaths

and certificates, tally sheets necessary to carry out this title, and other election supplies as the county auditor determines necessary.

SECTION 15. AMENDMENT. Section 16.1-06-21 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-21. ~~Pollbooks~~ Elector registers delivered by county auditor - Contents - Inspector of elections to deliver. The county auditor shall see that two copies of the ~~new pollbook~~ new pollbook ~~elector register~~ are delivered to the election inspector in each election precinct in the county. The following information must be provided to the inspector ~~and may be contained in each new pollbook~~:

1. A copy of the law prescribing the qualifications of electors.
2. A copy of the provisions of this title relating to the duties of inspectors, judges, and clerks of election.
3. A statement of the penalties imposed for offenses against the election laws.
4. ~~Blanks for all entries required to be made in the pollbook, or a preprinted listing of previous voters and blanks for the entry of new voters.~~

The election inspector shall deliver the ~~pollbooks, or cause the pollbooks to be delivered,~~ elector registers to the clerks of election in the inspector's precinct on election day before the opening of the polls.

SECTION 16. AMENDMENT. Section 16.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving. At any time between the opening and closing of the polls on election day, the election judges of the relevant precinct first shall open the outer envelope and compare the signature on ~~such the~~ the application for an absent voter's ballot with the signature on the statement provided for in section 16.1-07-08. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is ~~then~~ a duly qualified elector of ~~such the~~ the precinct and has not voted at the election, they shall open the absent voter's envelope in such manner as not to destroy the statement thereon. They shall take out the ballot ~~or ballots contained therein~~ without unfolding the ~~same~~ ballot, or permitting the ~~same~~ ballot to be opened or examined, and after stamping and initialing or initialing the ~~same~~ ballot as other ballots are stamped and initialed or initialed, they shall deposit the ballot in the proper ballot box

1 and show in the ~~pollbook~~ elector register of the election that the elector has voted. If the
2 statement is found to be insufficient, or that the signatures do not correspond, or that the
3 applicant is not ~~then~~ a duly qualified elector of the precinct, the vote may not be allowed, but
4 without opening the absent voter's envelope, the election inspector or election judge shall mark
5 across the face thereof "rejected as defective" or "rejected as not an elector", as the case may
6 be. The subsequent death of an absentee voter after having voted by absentee ballot ~~does is~~
7 not ~~constitute~~ grounds for rejecting ~~such~~ the ballot.

8 **SECTION 17. AMENDMENT.** Section 16.1-11-31 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-11-31. Tally books or sheets provided for election precincts - Form and**
11 **contents.** Two tally books or two sets of tally sheets must be provided for each voting precinct
12 not using electronic ballot counters. The books or sheets must contain a column for each
13 political party or principle having candidates to be voted for at the voting precinct. Two tally
14 books or two sets of tally sheets for candidates on the no-party ballot must be provided for each
15 voting precinct. The books or sheets must be furnished by the county auditor at the same time
16 and in the same manner as the ~~pollbooks and~~ ballots are furnished. The names of the
17 candidates must be placed on the tally books or sheets in the order in which they appear on the
18 official sample ballot and, as appropriate, must have the proper party or no-party designation at
19 the head thereof.

20 **SECTION 18. AMENDMENT.** Section 16.1-11-32 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **16.1-11-32. ~~Poll lists~~ Elector registers kept by clerks of elections.** The clerks of
23 primary elections shall ~~keep two lists~~ make a notation of the names of all persons voting at
24 each primary election in the elector registers in the manner prescribed by the secretary of state.
25 Each clerk shall return one ~~list~~ elector register and one tally sheet, which must be a part of the
26 records and filed with other election returns. Only two complete ~~lists of voters~~ elector registers
27 may be kept whether or not a special election is held simultaneously with the primary election.

28 **SECTION 19. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code
29 is amended and reenacted as follows:

30 **16.1-11.1-02. Application for mail ballots.** The county auditor shall mail an
31 application form for a mail ballot to each person listed in the ~~pollbooks of the county from the~~

~~last regular statewide election~~ elector register on one date no sooner than the forty-fifth 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 and to my best
(please print name)
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 address for at least thirty days before the election. My phone number is _____.

Dated this _____ day of _____, 19__.

(Signature of Applicant)

(Mailing Address)

_____, North Dakota _____

(City) (Zip Code)

SECTION 20. AMENDMENT. Section 16.1-15-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-02. Board of election to canvass votes - Location - Public may attend.

After the polls are closed, the inspector of elections and the judges shall immediately place the stamp and inkpad in the manila wrapper provided by the county auditor and seal it with the seal provided by the county auditor and then they shall open the ballot boxes and count and compare the ballots with the poll clerks' ~~lists~~ notations in the elector registers. If the ballots compare and are equal in number with the notations of names on the poll clerks' ~~lists~~ elector registers, the election board shall proceed immediately to canvass the votes. The canvass ~~shall~~ must continue without adjournment until completed and must be open to the public. Except in unusual and compelling circumstances, the vote canvass ~~shall~~ must occur at the

polling place. If good and substantial reasons exist for the removal of the ballots and election records to another location for canvass, the other location must be in the same precinct and the removal must be approved by the election board. In no case may the ballots be removed to another location for tally after the ballot boxes have been opened. Upon approval of a change of location by the election board as provided in this section, the approximate time and location of the canvass must be prominently posted on the main entrance to the polling place, the ballots and records must be moved in the presence of the election board, and the canvass as provided in this chapter must proceed immediately upon arrival at the alternate location.

SECTION 21. AMENDMENT. Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-06. Reports and ~~pollbooks~~ elector registers sent to county auditor - Compensation for making returns - County auditor to forward ~~pollbook~~ elector register to clerk of United States district court and to the clerk of the North Dakota district court.

By twelve noon of the day following an election except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver the duplicate reports provided for in section 16.1-15-04 to the county auditor. The reports, carefully sealed under cover, accompanied by both of the ~~pollbooks~~ elector registers provided for in section 16.1-06-21, and the wrapped and sealed stamp and inkpad, with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The person making the return ~~shall~~ is entitled to receive compensation ~~therefor~~ in accordance with section 16.1-05-05. However, no compensation and no mileage may be paid if delivery of the ballots is not made by twelve noon on the day following the election. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official. Within thirty days after receipt thereof following each presidential election, each county auditor shall forward one of the ~~pollbooks~~ elector registers to the clerk of the United States district court for the district encompassing that county for the clerk's official use. The county auditor shall request return of the ~~pollbook~~ elector register thirty days after receipt thereof by the clerk of the United States district court. The county auditor shall provide the clerk of the North Dakota district court of ~~said~~ that county with a ~~pollbook~~ an elector register to be used by the clerk for jury selection.

1 **SECTION 22. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-15-08. Wrapping and returning of ballots to clerk of the district court.** After
4 having prepared the reports and ~~poll lists~~ elector registers provided for in section 16.1-15-06 for
5 delivery to the county auditor, the election board shall cause the ballots of each kind cast at the
6 election to be placed in a suitable wrapper to form a complete wrapper for the ballots. The
7 ballots and wrappers must then be tightly secured at the outer end to completely envelop and
8 hold the ballots together. Ballots that are void must be secured in a separate wrapper and must
9 be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled".
10 In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be
11 endorsed with the name or number of the precinct and the date on which the election was held.
12 The wrappers must be sealed securely in a manner prescribed by the secretary of state so the
13 wrappers cannot be opened without an obvious and permanent breaking of the seal. The
14 ballots, together with those found void or spoiled, and the opened envelopes from voted
15 absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must
16 be returned in person to the clerk of the district court. Ballots used with any electronic voting
17 system or counted by an electronic counting machine must be sealed and returned as provided
18 in this section.

19 **SECTION 23. AMENDMENT.** Section 16.1-15-11 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **16.1-15-11. Locking and examination of voting machines - Tally of voting**
22 **machine votes - Certification to district judge or clerk of district court.** Voting machines
23 must remain locked for ten days next following use at an election and as much longer thereafter
24 as necessary or advisable because of any existing or probable contest over the results of the
25 election. They may be opened and all data and figures therein examined upon the order of any
26 court of competent jurisdiction. A complete record of the tally of votes from each voting
27 machine must be made by the inspector and the election judges at the time votes are tallied.
28 This record ~~shall~~ must agree in every respect with the ~~pollbooks~~ elector registers and the
29 original reports of the total votes cast for each candidate or measure. The record ~~shall~~ must
30 then be certified by the inspector and the election judges, and one copy ~~shall~~ must be delivered
31 to the district judge or to the clerk of district court at the same time as the ballots are delivered

1 to the judge or clerk pursuant to section 16.1-15-08. The records may be opened and all data
2 and figures therein examined upon the order of any court of competent jurisdiction in the event
3 of any existing or probable contest over the results of the election.

4 **SECTION 24. AMENDMENT.** Section 21-03-10 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **21-03-10. Initial resolution - How adopted.** The initial resolution may be:

- 7 1. Adopted by a majority vote of the governing body at any regular meeting thereof or
8 at any special meeting of which notice has been given as required by law, without
9 any previous action thereon or request therefor by the qualified electors or property
10 owners.
- 11 2. Proposed by filing a copy thereof in the office of the auditor or secretary of the
12 municipality, together with a petition signed by qualified electors of the municipality
13 aggregating in number one-fourth of the number of qualified electors of the
14 municipality, as shown by the ~~pollbook for the last preceding annual or general~~
15 ~~election held therein, or if such pollbook was not kept, then as shown by a census~~
16 ~~of the qualified electors of such municipality verified by the affidavit of one of such~~
17 ~~petitioners~~ elector register. ~~Such~~ The petition must ask that an election on the
18 question of issuing ~~such~~ the bonds be called. Upon the filing of ~~such~~ the proposed
19 initial resolution and petition, the governing body shall call ~~such~~ the election in the
20 manner specified by section 21-03-11.

21 **SECTION 25. AMENDMENT.** Section 40-21-09 of the 1997 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **40-21-09. Election districts in council cities - Division and consolidation by**
24 **ordinance - Ballots to be kept separate by wards.** Each city operating under the council
25 form of government in which council members are elected at large constitutes an election
26 district or voting precinct, and in all other cities each ward constitutes an election district or
27 voting precinct. Whenever the number of electors in any two or more contiguous wards does
28 not exceed one hundred as determined by the number of votes cast at the last city election, the
29 council, by ordinance, may consolidate those two or more wards into one precinct for voting
30 purposes. In any city containing less than four hundred electors as determined by the number
31 of votes cast at the last city election, the council, by ordinance, may consolidate all the wards of

1 the city into one precinct for voting purposes. An ordinance dividing or consolidating wards
2 must be passed and takes effect before the time of giving notice of the election. Wards and
3 precincts established under this section constitute election districts for all state, county, and city
4 elections. In city elections, separate ballot boxes and pollbooks or elector registers must be
5 provided and kept for each precinct. The terms "wards", "precincts", and "election districts"
6 have the same meaning except where two or more wards are consolidated into one precinct for
7 voting purposes or where one ward is divided into more than one precinct for voting purposes.
8 This section does not prohibit the use of one building as the election polling place for more than
9 one ward or the installation of voting machines from separate wards in one building.

10 **SECTION 26. AMENDMENT.** Section 40-21-13 of the 1997 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **40-21-13. Municipal elections to be governed by rules applicable to county**
13 **elections - Absent voting.** The manner of conducting, voting at, keeping poll lists or elector
14 registers, and canvassing votes at municipal elections, recounts, and contests of the results of
15 the elections is governed, as nearly as possible and except as otherwise provided in this
16 chapter, by the laws of this state applicable to elections and contests in the case of county
17 officers. Absent voters' ballots must be available in municipal elections in accordance with
18 chapter 16.1-07.