

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2230
(Senators Solberg, G. Nelson, Traynor)
(Representatives Devlin, N. Johnson)

AN ACT to amend and reenact sections 16.1-13-10 and 44-02-02 of the North Dakota Century Code, relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly; and to repeal section 16.1-13-11 of the North Dakota Century Code, relating to the duty of the governor when a vacancy occurs in the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-10. Vacancy existing in office of member of legislative assembly —~~Special election to fill.~~ ~~Whenever~~ If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which ~~such~~ the former member resides or resided shall notify the ~~governor~~ chairman of the legislative council of the vacancy. The county auditor need not notify the ~~governor~~ chairman of the legislative council of the resignation of a member of the legislative assembly when the resignation was made ~~pursuant to~~ under section 44-02-02. ~~Upon receiving such notification, the governor, if there is a session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of each affected county commanding the auditor to notify the several boards of election in the county or district in which the vacancy exists to hold a special election to fill such vacancy at a time designated by the governor. If there is no session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, the special election must be held at the same time as the general election. If the term of office of the member whose office is vacated expires prior to the next session of the legislative assembly, no election shall be held to fill such vacancy. Upon receiving notification of a vacancy, the chairman of the legislative council shall notify the district committee of the political party that the former member represented in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative council, the chairman of the legislative council shall appoint a resident of the district to fill the vacancy. If eight hundred twenty-eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at the next general election to serve for the remainder of the term of office for that office.~~

SECTION 2. AMENDMENT. Section 44-02-02 of the North Dakota Century Code is amended and reenacted as follows:

44-02-02. Resignations of officers - To whom made. The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which ~~he~~ the individual is a member, when in session, and when not in session, to the ~~governor~~ chairman of the legislative council. When made to the presiding officer, ~~he~~ the presiding officer at once shall notify the ~~governor thereof~~ chairman of the legislative council of the resignation.

4. An officer of the legislative assembly, to the branch of which ~~he~~ the individual is an officer.
5. An elective county officer, by filing or depositing ~~such~~ the resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any ~~such~~ resignation under this subsection, unless a different time is fixed therein, takes effect upon ~~such~~ the filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of ~~such~~ the board shall submit ~~his~~ the member's resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with ~~such~~ that officer.
7. Any officer holding ~~his~~ office by appointment, to the body, board, court, or officer which appointed ~~him~~ the officer.

SECTION 3. REPEAL. Section 16.1-13-11 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-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2230.

Senate Vote: Yeas 38 Nays 9 Absent 2

House Vote: Yeas 63 Nays 30 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State