

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2288

Introduced by

Senators Dever, Nelson, O'Connell

Representatives Carlisle, Delmore, Haas

1 A BILL for an Act to create and enact a new section to chapter 16.1-03 of the North Dakota
2 Century Code, relating to requirements for political parties conducting presidential preference
3 caucuses; to amend and reenact sections 16.1-11-15, 16.1-11-30, and 16.1-12-02 and
4 subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to circulating
5 petitions to establish a political party, independent nominations for president of the United
6 States, and rules adopted by the secretary of state for the presidential preference contest; and
7 to repeal sections 16.1-11-02, 16.1-11-02.1, 16.1-11-02.3, 16.1-11-03, and 16.1-11-04 of the
8 North Dakota Century Code, relating to the presidential preference contest.

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

10 **SECTION 1.** A new section to chapter 16.1-03 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Political parties may conduct presidential preference caucuses.**

- 13 1. On one designated day, following presidential nominating contests in the states of
14 Iowa and New Hampshire and prior to the first Wednesday in March in every
15 presidential election year, every political party entitled to a separate column under
16 section 16.1-11-30 may conduct a presidential preference caucus.
- 17 2. Before August fifteenth of the odd-numbered year immediately preceding the
18 presidential election year, the secretary of state shall designate the day after
19 consulting with and taking recommendations from the two political parties casting
20 the greatest vote for president of the United States at the most recent general
21 election when the office of president of the United States appeared on the ballot.
- 22 3. A political party entitled to conduct a presidential preference caucus must notify the
23 secretary of state before September first of the odd-numbered year immediately
24 preceding the presidential election year if the political party will conduct a

1 presidential preference caucus in that presidential election year according to this
2 section. If selected by a political party, the results of a presidential preference
3 caucus must be used to instruct delegates attending the political party's national
4 political convention.

5 4. A political party that establishes itself according to section 16.1-11-30 after
6 September first of the odd-numbered year immediately preceding the presidential
7 election year and before the day designated by the secretary of state according to
8 subsection 2 is entitled to conduct a presidential preference caucus according to
9 this section. The political party is entitled to conduct a presidential preference
10 caucus on the day designated by the secretary of state according to subsection 2
11 and shall notify the secretary of state of the political party's intent to conduct a
12 presidential preference caucus at the time it establishes itself.

13 5. Before the presidential preference caucuses, the legislative district chairman of
14 each participating party shall issue the call for the presidential preference caucus,
15 which may be held in conjunction with any other caucuses or meetings of the
16 political party that are scheduled for the purpose of endorsing legislative
17 candidates or selecting officers of the legislative district, at least thirty days before
18 the time set for holding the caucus. At the time of making the call, the district
19 chairman shall notify the secretary of state of the information contained in the call,
20 which must include the following:

21 a. Name of the party.

22 b. Precinct number or name.

23 c. Date of caucus.

24 d. Place of caucus.

25 e. Hours of caucus.

26 f. A statement of the business to be conducted, including the nomination of a
27 candidate for president of the United States.

28 g. The name of the district chairman issuing the call.

29 6. The district chairman shall provide ten days' published notice in the official county
30 newspaper in circulation within each precinct in the district. The notices must
31 contain that information set forth in subsection 5.

- 1 7. A presidential preference caucus must be conducted in the manner provided in this
2 chapter with the exception that a political party is not required to hold individual
3 caucuses in every election precinct throughout a legislative district. Only those
4 persons who either voted or affiliated with the political party at the last general
5 election or intend to vote or affiliate with the political party at the next general
6 election may participate and vote at the presidential preference caucus.
- 7 8. Unless specifically forbidden by national party rules, the voting delegates selected
8 by political parties are bound to cast their first ballots at the political party's national
9 convention in the same proportion as the total votes cast for all candidates for
10 president of the United States at the political party's presidential preference
11 caucus. If political party rules do not allow apportionment of a delegate and such
12 an apportionment appears necessary because a candidate did not receive more
13 than one-half of a delegate, those partial delegates must be assigned to the
14 candidate receiving the highest number of votes at the caucus. If a candidate
15 withdraws before voting begins on the first ballot, delegates obligated to vote for
16 the candidate on the first ballot are released from that obligation.
- 17 9. Every political party entitled to a separate column under section 16.1-11-30 that
18 chooses not to conduct a presidential preference caucus is entitled to nominate a
19 presidential candidate and select presidential electors for inclusion on the general
20 election ballot in the presidential election year according to section 16.1-03-14.

21 **SECTION 2. AMENDMENT.** Section 16.1-11-15 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-11-15. Nominating petition not to be circulated more than ninety days prior**
24 **to filing time.** No nominating petition provided for in ~~this chapter~~ sections 16.1-11-06 and
25 16.1-11-11 may be circulated or signed more than ninety days previous to the time when any
26 petition must be filed under the provisions of this chapter. Any signatures to a petition secured
27 more than ninety days before that time may not be counted.

28 **SECTION 3. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **16.1-11-30. Separate column on primary election ballot required for each political**
31 **party.** Any party that had printed on the ballot at the last preceding presidential election the

names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election or has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column or on a special election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If the petition is mailed it must be in the possession of the secretary of state before four p.m. on the sixtieth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election are entitled to organize according to the requirements of chapter 16.1-03.

~~Within the consolidated column, the group of candidates for each organization must be inverted from the next group appearing in that column.~~

SECTION 4. AMENDMENT. Section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02. Certificates of nomination by petition - Form and contents.

Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. ~~The~~ Except for nominees for president of the United States, names of nominees so nominated must appear on the ballot as independent nominations. The names of nominees for president

1 of the United States may appear on the ballot with a designation, not to exceed five words, that
2 names the organization or political party to which the presidential candidate affiliates. The
3 designation may not falsely indicate an affiliation with or the support of any political party
4 organized in accordance with this title or include any substantive word or phrase that is profane
5 or that is already included in or resembles the name of a political party entitled to a separate
6 column under section 16.1-11-30. Each certificate of nomination by petition must meet the
7 specifications for nominating petitions set forth in section 16.1-11-16. The signatures on the
8 petition must be in the following number:

- 9 1. Except as provided in subsection 3, if the nomination is for an office to be filled by
10 the qualified electors of the entire state, there must be no fewer than one thousand
11 signatures.
- 12 2. If the nomination is for an office to be filled by the qualified electors of a district less
13 than the entire state, the number of signatures must be at least two percent of the
14 resident population of the district as determined by the most recent federal
15 decennial census, but in no case may more than three hundred signatures be
16 required.
- 17 3. If the nomination is for the office of president, there must be no fewer than four
18 thousand signatures.
- 19 4. If the petition is for the office of governor or lieutenant governor, it must contain the
20 names and other required information of candidates for both those offices.

21 **SECTION 5. AMENDMENT.** Subsection 2 of section 28-32-01 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 2. "Administrative agency" or "agency" means each board, bureau, commission,
24 department, or other administrative unit of the executive branch of state
25 government, including one or more officers, employees, or other persons directly
26 or indirectly purporting to act on behalf or under authority of the agency. An
27 administrative unit located within or subordinate to an administrative agency must
28 be treated as part of that agency to the extent it purports to exercise authority
29 subject to this chapter. The term administrative agency does not include:
 - 30 a. The office of management and budget except with respect to rules made
31 under section 32-12.2-14, rules relating to conduct on the capitol grounds and

in buildings located on the capitol grounds under section 54-21-18, rules relating to the central personnel system as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.

b. The adjutant general with respect to the division of emergency management.

c. The council on the arts.

d. The state auditor.

e. The department of commerce with respect to the division of economic development and finance.

f. The dairy promotion commission.

g. The education factfinding commission.

h. The educational technology council.

i. The board of equalization.

j. The board of higher education.

k. The Indian affairs commission.

l. The industrial commission with respect to the activities of the Bank of North Dakota, North Dakota housing finance agency, North Dakota municipal bond bank, North Dakota mill and elevator association, and North Dakota farm finance agency.

m. The department of corrections and rehabilitation except with respect to the activities of the division of adult services under chapter 54-23.4.

n. The pardon advisory board.

o. The parks and recreation department.

p. The parole board.

q. The state fair association.

r. The state department of health with respect to the state toxicologist.

s. The board of university and school lands except with respect to activities under chapter 47-30.1.

t. The administrative committee on veterans' affairs except with respect to rules relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.

1 u. The industrial commission with respect to the lignite research fund except as
2 required under section 57-61-01.5.

3 v. ~~The secretary of state with respect to rules adopted for the presidential~~
4 ~~preference contest under section 16.1-11-02.3.~~

5 w. The attorney general with respect to guidelines adopted under section
6 12.1-32-15 for the risk assessment of sexual offenders, the risk level review
7 process, and public disclosure of information under section 12.1-32-15.

8 **SECTION 6. REPEAL.** Sections 16.1-11-02, 16.1-11-02.1, 16.1-11-02.3, 16.1-11-03,
9 and 16.1-11-04 of the North Dakota Century Code are repealed.