

**SENATE BILL NO. 2405**

Introduced by

Senators Dever, Krebsbach

Representatives Devlin, Meier

1 A BILL for an Act to amend and reenact sections 16.1-11-18 and 16.1-13-10 of the North  
2 Dakota Century Code, relating to filling vacancies occurring in nominations for party office and  
3 filling legislative vacancies.

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

5 **SECTION 1. AMENDMENT.** Section 16.1-11-18 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **16.1-11-18. Party committees to fill vacancy occurring in nomination for party**  
8 **office.**

- 9 1. If a vacancy occurs in any party certificate of endorsement at the primary election  
10 for any state or legislative district office, the proper state or district executive  
11 committee of the political party may fill the vacancy by filing another certificate of  
12 endorsement with the proper officer as provided in sections 16.1-11-06 and  
13 16.1-11-11.
- 14 2. If no party endorsement has been made by certificate and a vacancy occurs in a  
15 slate of candidates seeking party nomination by petition at the primary election, the  
16 proper state or district executive committee may fill the vacancy by filing a  
17 certificate of endorsement with the proper officer as provided in sections  
18 16.1-11-06 and 16.1-11-11.
- 19 3. If party endorsements by certificate have been made for any state or district office  
20 and a vacancy occurs in the slate of persons seeking nomination at the primary  
21 election because of the unavailability of the person who is seeking nomination by  
22 petition, that vacancy may not be filled except by petition.
- 23 4. If a vacancy occurs in a slate of statewide candidates after the candidates have  
24 been nominated at the primary election, the proper state executive committee may

1 fill any vacancy by filing a certificate of nomination with the secretary of state. The  
2 chairman and secretary of the committee shall make and file with the secretary of  
3 state a certificate setting forth the cause of the vacancy, the name of the person for  
4 whom the new nominee is to be substituted, the fact that the committee was  
5 authorized to fill vacancies, and any further information as may be required to be  
6 given in an original certificate of nomination. When such a certificate is filed, the  
7 secretary of state shall certify the new nomination and the name of the person who  
8 has been nominated to fill the vacancy in place of the original nominee to the  
9 various auditors. If the secretary of state already has forwarded the certificate, the  
10 secretary of state forthwith shall certify to the auditors the name and address of the  
11 new nominee, the office the new nominee is nominated for, the party or political  
12 principle the new nominee represents, and the name of the person for whom the  
13 new nominee is substituting. Failure to publish the name of a new nominee does  
14 not invalidate the election.

- 15 5. If a vacancy occurs in a slate of legislative candidates after the candidates have  
16 been nominated at the primary election, the proper district executive committee  
17 may fill the vacancy by filing a certificate of nomination with the county auditor of  
18 the new nominee's county of residence. The chairman and secretary of the  
19 committee shall make and file with the county auditor of the new nominee's county  
20 of residence a certificate setting forth the cause of the vacancy, the name of the  
21 person for whom the new nominee is to be substituted, the fact that the committee  
22 was authorized to fill vacancies, and any further information as may be required to  
23 be given in an original certificate of nomination. When the certificate is filed, the  
24 county auditor of the new nominee's county of residence shall certify the new  
25 nomination to the various auditors affected by the change and to the secretary of  
26 state by forwarding to them the name of the person who has been nominated to fill  
27 the vacancy in place of the original nominee. The certification must include the  
28 name and address of the new nominee, the office the new nominee is nominated  
29 for, the party or political principle the new nominee represents, and the name of the  
30 person for whom the new nominee is substituting. Failure to publish the name of a  
31 new nominee does not invalidate the election.

6. A vacancy in a nomination following a primary election may not be filled according to subsections 4 or 5 unless the nominated candidate:

a. Dies;

b. Would be unable to serve, if elected, as a result of a debilitating illness; or

c. Ceases to be a resident of the state or legislative district for which the candidate would serve, if elected.

Vacancies to be filled according to the provisions of this section may be filled not later than sixty days prior to the election.

**SECTION 2. 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.**

1. If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which the former member resides or resided shall notify the chairman of the legislative council of the vacancy. The county auditor need not notify the chairman of the legislative council of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02. 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~~ Except as provided in subsection 2, 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 and qualified following the next general election or special election called by the governor according to subsection 2 to serve for the remainder of the term of office for that office.

- 1           2.   The qualified electors of a legislative district in which a vacancy in the legislative  
2                   assembly occurs may petition for a special election to be called by the governor to  
3                   fill the vacancy. The petition must include the signatures of qualified electors equal  
4                   in number to four percent of the resident population of the legislative district as  
5                   determined by the last federal decennial census and must be presented to the  
6                   secretary of state within thirty days following an appointment being made according  
7                   to subsection 1. If the secretary of state determines the petition contains the  
8                   required number of signatures of qualified electors of the affected legislative  
9                   district, the secretary of state shall notify the governor that a special election is  
10                  required to be called to fill the vacancy. Upon receiving such notice, the governor  
11                  shall issue a writ of election directed to the county auditor of each affected county  
12                  commanding the county auditor to hold a special election to fill the vacancy at a  
13                  time designated by the governor. A special election under this section must  
14                  conform to the applicable election deadlines found in this title and may be called to  
15                  coincide with a regularly scheduled primary or general election provided the special  
16                  election is called by the fifteenth day before the deadline for candidates to file for  
17                  office before a regularly scheduled primary or general election. A special election  
18                  under this section may not be scheduled to occur during the time from a general  
19                  election through the adjournment of the next ensuing regular session of the  
20                  legislative assembly.
- 21           3.   The secretary of state must be notified of an appointment made by a district  
22                  committee or the chairman of the legislative council according to this section.  
23                  Upon notification, the secretary of state shall issue the appointee a certificate of  
24                  appointment and an oath of office for the appointee to complete and file with the  
25                  secretary of state.