

HOUSE BILL NO. 1310

Introduced by

Representative Glassheim

1 A BILL for an Act to create and enact a new chapter to title 16.1 of the North Dakota Century
2 Code, relating to instant runoff voting; to amend and reenact sections 16.1-14-01 and
3 16.1-15-01 of the North Dakota Century Code, relating to the canvassing of votes; and to
4 provide an effective date.

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

6 **SECTION 1.** A new chapter to title 16.1 of the North Dakota Century Code is created
7 and enacted as follows:

8 **Definitions.** As used in this chapter:

- 9 1. "Backup choice" means any choice ranked below a first choice.
- 10 2. "Choice" means an indication on a ballot of a voter's ranking of the various
11 candidates for the same office in order of preference and is a potential vote that
12 may be counted as a vote to elect a candidate depending on the rules for counting
13 the choices provided under this chapter.
- 14 3. "Eliminate" or "eliminated candidate" means a circumstance under which a
15 candidate has not received sufficient choices and is thereby dropped from the field
16 of candidates.
- 17 4. "Exhausted ballot" means a ballot on which there are no uncounted choices for
18 remaining candidates and all choices made on the ballot have been counted as
19 potential votes for various candidates or contain choices for eliminated candidates.
- 20 5. "Instant runoff voting" means a system of voting through which a voter may rank
21 candidates for the same office in order of preference, so that the voter may indicate
22 a first choice, second choice, and continuing choices for as many candidates as
23 are on the ballot for the office.

7. "Last place candidate" means a candidate who has received the fewest votes among the candidates who remain at any stage.

8. "Next choice" means the highest ranked choice for a remaining candidate which has not become a vote at that stage.

9. "Remaining candidate" means a candidate who has not been eliminated.

10. "Stage" means one of successive steps or rounds in counting voter choices for candidates to determine whether a candidate has achieved a majority and to determine which candidates are eliminated.

11. "Vote" means a ballot choice that is counted toward election of a candidate.

Instant runoff voting application. Instant runoff voting must be used in a general election contest for any of the following offices when more than two candidates are on the ballot for that office:

1. President and vice president of the United States.

2. United States senator.

3. Member of the United States house of representatives.

4. All statewide offices, including the justices of the supreme court.

Ballot specifications - Directions to voters - Duties of the secretary of state. The secretary of state shall ensure that ballots used for an election conducted under this chapter are clear and easily understandable and shall adopt any rules necessary to implement instant runoff voting. The secretary of state shall include on the ballot and on sample ballots directions to voters which provide:

"You may vote for candidates in order of preference. Indicate your first choice by marking the number "1" beside a candidate's name, your second choice by marking the number "2", your third choice by marking the number "3", and so on, for as many or as few choices as you wish. You are under no obligation to rank more than one candidate for each office, but ranking additional candidates will not affect your first choice candidate. Do not mark the same number beside more than one candidate. Do not skip numbers."

Counting of votes. Each canvassing board shall count votes in the following manner:

1. In the first stage of counting votes, all first choices must be counted. If a candidate receives a majority of first choices, that candidate is elected.

2. If no candidate receives a majority in the first or any subsequent stage, the last place candidate at each stage must be eliminated.
3. The canvassing board shall continue the process until all but one candidate has been eliminated, and that candidate is elected.
4. Once a ballot is exhausted, the ballot must be disregarded and no longer counted. A ballot on which a voter gives the same ranking for more than one candidate for the same office is exhausted when the duplicate choice is reached and no vote may be recorded for either of the candidates involved. If a voter skips a ranking on the voter's ballot, the next ranking below the skipped choice must be counted as though it were the rank of the skipped choice.
5. If a tie occurs at any stage in the counting of choices, except in the final stage, the candidate who had the fewest choices at the previous stage of tabulation must be eliminated. If the candidates were also tied at a previous stage, the candidate with the fewest choices in the subsequent stage must be eliminated.
6. If two or more candidates are tied at the final stage of counting, the winner must be determined as otherwise provide by law for a tie.
7. If all choices on all ballots have been counted and no candidate has achieved a majority, the candidate with the most votes is elected.
8. No votes may be counted for a candidate who has been eliminated regardless of how many backup choices might otherwise have become votes for the candidate.

Application of general election laws. Any general election law under this title must be construed to be applicable to elections held under this chapter unless the provision specifically conflicts with the provisions of this chapter.

SECTION 2. AMENDMENT. Section 16.1-14-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-14-01. Canvassing votes for presidential electors - Tie vote. The state canvassing board in examining and making a statement of the votes for, and in determining and certifying the ~~persons~~ individuals chosen as, presidential electors shall proceed in the manner prescribed in this title for the canvass of votes for state officers. The secretary of state likewise shall file and record such statement and determination. ~~It~~ Except as provided in section 1 of this Act, in canvassing the returns for presidential electors, the group of electors having the

greatest number of votes is to be declared elected. If two or more groups of electors are found to have an equal and the greatest number of votes, the election of one group must be determined by a coin flip, with the governor flipping the coin in the presence of the other members of the state canvassing board.

SECTION 3. AMENDMENT. Section 16.1-15-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-01. Ballots void and not counted - Part of ballot may be counted.

1. In the canvass of the votes at any election, a ballot is void and may not be counted if:
 - a. It is not endorsed with the official stamp and initials as provided in this title; or
 - b. It is impossible to determine the elector's choice from the ballot or parts of a ballot, and in the case of electronic voting systems, based upon the criteria established by the secretary of state for counting votes on each electronic voting system authorized for procurement and use in the state according to section 16.1-06-26.
2. If a ballot is marked so only a part of the voter's intention can be determined, the election judges shall count such part. Except as provided in section 1 of this Act, if an elector votes for more than the number of ~~persons~~ individuals to be elected to any office, the elector's ballot may be invalidated only insofar as the elector's vote for such office is concerned, and the balance of the elector's ballot, if otherwise proper, may not be invalidated. However, at primary elections only, a party ballot is void if the elector votes for candidates of more than one party.
3. This chapter applies to the canvassing of ballots in an election held under section 1 of this Act to the extent the provisions of this chapter do not conflict with section 1 of this Act.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on the date the secretary of state certifies to the legislative council that all voting systems in the state are capable of counting ballots in an election held under an instant runoff voting system.