

Fifty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1294

Introduced by

Representatives Kretschmar, Brandenburg, Maragos, Martinson

Senator Espegard

1 A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota
2 Century Code, relating to vacancies in office of a member of the legislative assembly; and to
3 amend and reenact section 16.1-13-10 and subsection 3 of section 44-02-02 of the North
4 Dakota Century Code, relating to filling a vacancy in a legislative office and resignation of a
5 member of the legislative assembly.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

9 **16.1-13-10. Vacancy existing in office of member of legislative assembly.**

10 1. If a vacancy in the office of a member of the legislative assembly occurs, the
11 county auditor of the county in which the former member resides or resided shall
12 notify the ~~chairman of the legislative council~~ governor of the vacancy. The county
13 auditor need not notify the ~~chairman of the legislative council~~ governor of the
14 resignation of a member of the legislative assembly when the resignation was
15 made under section 44-02-02. Upon receiving notification of a vacancy, the
16 ~~chairman of the legislative council~~ governor, if there is a regular session of the
17 legislative assembly between the time the vacancy occurs and the next general
18 election, shall issue a writ of election directed to the county auditor of each affected
19 county commanding the county auditor to hold a special election to fill the vacancy
20 at a time designated by the governor. If there is no regular session of the
21 legislative assembly between the time the vacancy occurs and the next general
22 election, and the term of the office for that office does not end before the next
23 regular session of the legislative assembly, the governor shall direct that a special
24 election be held at the same time as the general election. If there is no regular

session of the legislative assembly between the time the vacancy occurs and the expiration of the term of office of the member whose office is vacated, the governor may issue a writ of election to hold a special election to fill the vacancy. An individual elected to fill a vacancy shall serve for the remainder of the term of office for that office.

2. If a vacancy occurs in the office of a member of the legislative assembly while the legislative assembly is in regular session, the governor 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~~ nominate three individuals to fill the vacancy. The district committee shall submit its nominations to the governor who shall appoint one of the nominees within seven days after receiving the nominations. If the former member was elected as an independent candidate or if the district committee does not ~~make an appointment~~ submit nominations within twenty-one days after receiving the notice ~~from the chairman of the legislative council of the vacancy, the chairman of the legislative council~~ governor shall appoint a resident of the district to fill the vacancy. ~~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~~ 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.

~~2. The qualified electors of a legislative district in which a vacancy in the legislative assembly occurs may petition for a special election to be called by the governor to fill the vacancy. The petition must include the signatures of qualified electors equal in number to four percent of the resident population of the legislative district as determined by the last federal decennial census and must be presented to the secretary of state within thirty days following an appointment being made according to subsection 1. If the secretary of state determines the petition contains the required number of signatures of qualified electors of the affected legislative district, the secretary of state shall notify the governor that a special election is~~

required to be called to fill the vacancy. Upon receiving such notice, the governor shall issue a writ of election directed to the county auditor of each affected county commanding the county auditor to hold a special election to fill the vacancy at a time designated by the governor. A special election under this section must conform to the applicable election deadlines found in this title and may be called to coincide with a regularly scheduled primary or general election provided the special election is called by the fifteenth day before the deadline for candidates to file for office before a regularly scheduled primary or general election. A special election under this section may not be scheduled to occur during the time from a general election through eighty days following the adjournment of the next ensuing regular session of the legislative assembly.

3. The secretary of state must be notified of an appointment made by ~~a district committee or the chairman of the legislative council~~ the governor according to this section. Upon notification, the secretary of state shall issue the appointee a certificate of appointment and an oath of office for the appointee to complete and file with the secretary of state.

SECTION 2. AMENDMENT. Subsection 3 of section 44-02-02 of the North Dakota Century Code is amended and reenacted as follows:

3. A member of the legislative assembly, to the presiding officer of the branch of which the individual is a member, when in session, and when not in session, to the ~~chairman of the legislative council~~ governor. When made to the presiding officer, the presiding officer at once shall notify the ~~chairman of the legislative council~~ governor of the resignation.

SECTION 3. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Member of legislative assembly - Change of residence outside legislative district creates vacancy. If a member of the legislative assembly establishes a residence outside the district from which the member was elected, the individual is deemed to have vacated the office.