

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1377

Introduced by

Representatives Grande, Haas, Heller, Kasper

Senator Dever

1 A BILL for an Act to amend and reenact sections 16.1-15-06 and 16.1-15-08, subsection 6 of
2 section 16.1-15-09, sections 16.1-15-13, 16.1-15-15, 16.1-15-19, 16.1-15-22, 16.1-15-25, and
3 16.1-15-26 of the North Dakota Century Code, relating to canvassing elections.

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

5 **SECTION 1. AMENDMENT.** Section 16.1-15-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **16.1-15-06. Reports and pollbooks sent to county auditor - Compensation for**
8 **making returns.** Immediately following the canvass, except in cases of emergency or
9 inclement weather, the inspector of elections, or one of the judges appointed by the inspector of
10 elections, personally shall deliver one of the signed canvass reports provided for in section
11 16.1-15-04 to the county auditor. The reports, carefully sealed under cover, accompanied by
12 ~~both of the pollbooks~~ pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the
13 oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county
14 auditor. The person making the return shall receive compensation therefor in accordance with
15 section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on
16 a warrant of the county auditor and is full compensation for returning all used or voided ballots
17 to the proper official.

18 **SECTION 2. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **16.1-15-08. Wrapping and returning of ballots to ~~clerk of the district court~~ county**
21 **recorder.** After generating the reports and poll lists provided for in section 16.1-15-06 for
22 delivery to the county auditor, the election board shall cause the ballots containing lawful
23 write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper
24 for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The

1 ballots and wrappers must then be tightly secured at the outer end to completely envelop and
2 hold the ballots together. Ballots that are void must be secured in a separate wrapper and must
3 be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled".
4 In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be
5 endorsed with the names or numbers of the precincts and the date on which the election was
6 held. The wrappers must be sealed securely in a manner prescribed by the ~~secretary of state~~
7 county auditor so the wrappers cannot be opened without an obvious and permanent breaking
8 of the seal. The ballots, together with those found void or spoiled, and the opened envelopes
9 from voted absentee ballots and the unopened envelopes of absentee ballots rejected as
10 defective, must be returned in person to the ~~clerk of the district court~~ county recorder. At the
11 meeting of the county canvassing board, the ~~clerk of the district court~~ county recorder shall
12 deliver the ballots containing lawful write-in votes from all the precincts within the county. At the
13 meeting of the county canvassing board, the ~~clerk of the district court~~ county recorder shall
14 deliver each ballot that may contain a write-in vote referenced in a demand made under
15 subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted
16 by an electronic counting machine must be sealed and returned as provided in this section.

17 **SECTION 3. AMENDMENT.** Subsection 6 of section 16.1-15-09 of the North Dakota
18 Century Code is amended and reenacted as follows:

- 19 6. If any electronic voting system ballot or a ballot counted by an electronic counting
20 machine is damaged or defective so that it cannot be properly counted by the
21 automatic tabulating or electronic counting equipment, a true duplicate copy must
22 be made by election officials of opposed interests and substituted for the damaged
23 or defective ballot. All duplicate ballots must be clearly labeled duplicate, must
24 bear a serial number that must be recorded on the damaged or defective ballot,
25 and must be wrapped and delivered with other ballots to the ~~district judge or to the~~
26 ~~clerk of district court~~ county recorder.

27 **SECTION 4. AMENDMENT.** Section 16.1-15-13 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **16.1-15-13. ~~District judge or clerk of district court~~ County recorder to keep ballots**
30 **- Exception - Use of ballots as evidence.** Immediately upon receiving the ballots as provided
31 in section 16.1-15-08, the ~~district judge or the clerk of district court~~ county recorder shall give a

1 receipt to the election judges and shall place the ballots properly arranged in the order of the
2 precinct number in boxes that shall be securely locked. The boxes must be placed in a
3 fireproof vault and must be kept securely for forty-five days if the ballots do not contain federal
4 offices and twenty-two months if the ballots contain federal offices. With the exception of the
5 ballots containing lawful write-in votes that may be counted at the meeting of the county
6 canvassing board, the ballots may not be opened nor inspected, except upon court order in a
7 contested election, when it is necessary to produce them at a trial for any offense committed at
8 an election, or to permit election officials to complete their duties. Either forty-five days or
9 twenty-two months after the election dependent upon the retention schedule outlined in this
10 section, upon determination by the ~~district judge or the clerk of district court~~ county recorder
11 that no contest is pending, the ballots must be destroyed. If any contest of the election of any
12 officer voted for at the election or a prosecution under the provisions of this title is pending at
13 the expiration of such time, the ballots may not be destroyed until the contest or prosecution is
14 finally determined. The ballots returned to the ~~district judge or clerk of district court~~ county
15 recorder as provided in this section must be received in evidence without introducing further
16 foundation.

17 **SECTION 5. AMENDMENT.** Section 16.1-15-15 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **16.1-15-15. County canvassing board - Composition.** The county canvassing board
20 must be composed of the ~~clerk of the district court~~ county recorder, county auditor, chairman of
21 the board of county commissioners, and a representative of each of the two political parties that
22 received the highest number of votes cast for governor at the most recent general election at
23 which a governor was elected. The district chairmen of the political parties from each legislative
24 district within the county shall appoint the respective political party representative. The county
25 canvassing board must be comprised of at least five members, and both political parties must
26 be represented. Each political party from each legislative district within a county may request
27 representation on the canvassing board if there is equal representation from each of the
28 political parties. For any special county election when the county is composed of more than
29 one legislative district and the election does not involve any legislative or statewide office, the
30 county canvassing board must be composed of the ~~clerk of the district court~~ county recorder,
31 county auditor, chairman of the board of county commissioners, and one representative as

1 appointed by the state chairman for each of the two political parties that received the highest
2 number of votes cast for governor at the most recent general election at which a governor was
3 elected.

4 **SECTION 6. AMENDMENT.** Section 16.1-15-19 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-15-19. County canvassing board to disregard technicalities, misspelling, and**
7 **abbreviations - Write-in votes canvassed - Votes from unestablished precincts**
8 **disregarded.** In canvassing the election returns, the county canvassing board shall disregard
9 technicalities, misspelling, and the use of initial letters or abbreviations of the name of any
10 candidate for office if it can be ascertained for whom the vote was intended. Pursuant to
11 section 16.1-12-02.2, the board shall canvass all qualifying write-in votes. The board may not
12 count votes polled in any place except at established precincts. The county canvassing board
13 is authorized to initial all absentee ballots cast pursuant to section 16.1-07-09 that were not
14 considered or counted ~~or by election boards and to make a final determination of eligibility for~~
15 all ballots which were rejected at the various precincts in the county for the reasons provided in
16 sections 16.1-07-11 and 16.1-07-12.

17 **SECTION 7. AMENDMENT.** Section 16.1-15-22 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **16.1-15-22. County auditor to transmit abstract of votes to secretary of state after**
20 **primary election.** The county auditor of each county, ~~under the auditor's official seal,~~ shall
21 ~~return provide~~ to the secretary of state ~~by registered or certified mail within ten days after the~~
22 ~~day of any primary election,~~ a certified abstract, under separate political designation or
23 principle, or no-party designation, as the case may be, of the total number of votes cast in the
24 auditor's county and the votes cast for every candidate for nomination according to reporting
25 instructions specified by the secretary of state. The abstract must also include the total number
26 of votes cast for initiated or referred measures and constitutional amendments. The certified
27 abstract ~~to be mailed under this section~~ must be in the possession of the secretary of state
28 before four p.m. on the tenth day after the primary election.

29 **SECTION 8. AMENDMENT.** Section 16.1-15-25 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **16.1-15-25. County auditor to forward abstract of votes of general election to**
2 **secretary of state - Contents - Abstract for presidential electors.** Within ten days and
3 before four p.m. on the tenth day following any general election, the county auditor of each
4 county, ~~under official seal,~~ shall ~~return~~ provide to the secretary of state a certified abstract of
5 the votes cast in the county at the election according to the reporting instructions specified by
6 the secretary of state. ~~All certified abstract of votes must be transmitted by registered or~~
7 ~~certified mail to the secretary of state.~~

8 **SECTION 9. AMENDMENT.** Section 16.1-15-26 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-15-26. Memorandum of date of receiving returns in secretary of state's**
11 **office.** A memorandum of the date of reception of all returns of votes in the secretary of state's
12 office must be made ~~on the envelope containing the returns to each county auditor.~~