

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative Boehning

1 A BILL for an Act to amend and reenact section 16.1-05-06 of the North Dakota Century Code,  
2 relating to the canvassing of ballots of voters whose eligibility to vote has been challenged.

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

4 **SECTION 1. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **16.1-05-06. Challenging right of person to vote - Identification or affidavit**  
7 **required - Penalty for false swearing - Optional poll checkers.**

- 8 1. One poll challenger appointed by the district chairman of each political party  
9 represented on the election board is entitled to be in attendance at each polling  
10 place. Individual poll challengers may be replaced at any time during the hours of  
11 voting, but no more than one poll challenger from each political party is entitled to  
12 be in attendance at each polling place at any one time.
- 13 2. Any member of the election board may challenge the right of an individual to vote if  
14 the election board member has knowledge or has reason to believe the individual  
15 is not a qualified elector. A poll challenger may request members of the election  
16 board to challenge the right of an individual to vote if the poll challenger has  
17 knowledge or has reason to believe the individual is not a qualified elector of the  
18 precinct. A challenge may be based upon any one of the following:
  - 19 a. The individual offering to vote does not meet the age or citizenship  
20 requirements.
  - 21 b. The individual offering to vote has never voted in the precinct before, the  
22 name of the individual offering to vote does not appear in the pollbook  
23 generated from the central voter file, and the individual fails to provide  
24 reasonable evidence of residency in the precinct.

- 1           c.    Except as provided in section 16.1-01-05, the individual offering to vote
- 2                 physically resides outside of the precinct.
- 3           d.    The individual offering to vote does not meet the residency requirements
- 4                 provided in section 16.1-01-04.
- 5           e.    The individual offering to vote fails or refuses to provide an appropriate form
- 6                 of identification as requested under subsection 3.
- 7        3.    If after an election board member has requested that the individual offering to vote
- 8                 provide an appropriate form of identification to address any of the voting eligibility
- 9                 concerns listed in subsection 2 and the identification is not provided or does not
- 10                adequately confirm the eligibility of the challenged individual, the challenged
- 11                individual may not vote unless the challenged individual executes an affidavit,
- 12                acknowledged before the election inspector, that the challenged individual is a
- 13                legally qualified elector of the precinct.
- 14        4.    The affidavit must include:
- 15           a.    The name, present address, and any contact telephone number of the affiant
- 16                 and the address of the affiant at the time the affiant last voted.
- 17           b.    The previous last name of the affiant if it was different when the affiant last
- 18                 voted.
- 19           c.    A recitation of the qualifications for voting as set forth in section 16.1-01-04
- 20                 and the rules for determining residence.
- 21           d.    Notice of the penalty for making a false affidavit and that the county auditor
- 22                 may verify the affidavit.
- 23           e.    A place for the affiant to sign and swear to the affiant's qualifications as a
- 24                 voter.
- 25           f.    A statement that informs the affiant that the affiant may ensure that the
- 26                 affiant's ballot will be counted if the affiant delivers proof of the affiant's
- 27                 eligibility to vote to the county auditor within three days.
- 28        5.    Written notice of the penalty for making a false affidavit and that the county auditor
- 29                 shall verify the affidavits must also be prominently displayed at the polling place in
- 30                 a form prescribed by the secretary of state. An individual who falsely swears in

order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.

6. The election inspector shall place the ballot of an individual who executes an affidavit under this section in a secure envelope designed by the secretary of state to protect the secrecy of the ballot. Each election inspector shall deliver to the county auditor a list of the names of all individuals who executed an affidavit under this section and each ballot cast by those individuals. The county auditor shall attempt to verify the address of each affiant within three days after the election. The county auditor shall forward the ballot of each affiant whose address has been verified to the county canvassing board for canvassing and forward the remaining ballots to the county canvassing board marked as "rejected as not an elector". The county canvassing board shall make the final determination of eligibility for the rejected ballots.

7. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.

~~7.~~ 8. No poll challenger or checker may be a member of the election board.

~~8.~~ 9. The district chairman shall notify the county auditor of each county contained in the legislative district before the third day before the day of the election of the names of individuals whom the district chairman has appointed to serve as poll challengers and poll checkers in the precincts in the legislative district.