

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1447**

Introduced by

Representatives Koppelman, Boehning, Carlson, Owens, Thoreson

1 A BILL for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota
2 Century Code, relating to the appointment of poll checkers; to amend and reenact sections
3 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, and 58-04-09 of the North Dakota Century
4 Code, relating to verification of eligibility of voters; to repeal section 16.1-05-06 of the North
5 Dakota Century Code, relating to challenging the right to vote; to provide for a legislative
6 management study; and to provide a penalty.

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

8 **SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-02-05. Entry of new voters into the central voter file - Query of the central voter**
11 **file for double voting - ~~Challenges~~ - Postelection verification.**

- 12 1. Within forty-five days following an election, the county auditor shall enter the name
13 and required information of each individual who voted at the last election who is not
14 already contained in the central voter file and update any required information
15 requested and obtained at the last election for any individual contained in the central
16 voter file.
- 17 2. The secretary of state, with the assistance of the county auditors, within eighty-five
18 days following an election, shall query the central voter file to determine if any
19 individual voted more than once during the preceding election. The secretary of state
20 shall immediately notify the county auditor and state's attorney in each affected county
21 for further investigation.
- 22 3. Upon return of any nonforwardable mail from an election official, the county auditor
23 shall ascertain the name and address of that individual. If the individual is no longer at
24 the address recorded in the central voter file, the county auditor shall transfer the voter

1 to the correct precinct in the central voter file or notify the county of the voter's new
2 residence so the voter record can be transferred to the correct county. If a notice
3 mailed at least sixty days after the return of the first nonforwardable mail is also
4 returned by the postal service, the county auditor shall designate the individual as
5 "inactive" in the central voter file.

- 6 4. ~~Within forty-five days after an election, the county auditor shall send a notice to each~~
7 ~~individual who was challenged on election day according to section 16.1-05-06. If a~~
8 ~~notice is returned as not deliverable, the county auditor shall attempt to determine the~~
9 ~~reason for the return. A county auditor who does not receive or obtain satisfactory~~
10 ~~proof of an individual's eligibility to vote shall notify immediately the state's attorney to~~
11 ~~conduct an investigation of the individual's eligibility to vote in that election.~~

12 **SECTION 2. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-05-04. Duties of the members of the election board during polling hours.**

- 15 1. The election inspector shall supervise the conduct of the election to ensure all election
16 officials are properly performing their duties at the polling place. The election inspector
17 shall assign duties so as to equally and fairly include both parties represented on the
18 election board.
- 19 2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out
20 the ministerial duties assigned by the election inspector.
- 21 3. The election inspector shall assign the poll clerks to perform the function of
22 maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The
23 pollbook must contain the name and address of each individual voting at the precinct
24 and must be arranged in the form and manner prescribed by the secretary of state.
- 25 4. ~~The members of the election board shall challenge the right of anyone to vote whom~~
26 ~~they know or have reason to believe is not a qualified elector by requiring the elector~~
27 ~~to complete and sign a voter's affidavit.~~
- 28 5. Each member of the election board shall remain on the premises of the polling place
29 during the time the polls are open to prevent the occurrence of fraud, deceit, or other
30 irregularity in the conduct of the election.

1 ~~6-5.~~ All members of the election board shall distribute ballots and other election materials
2 to electors. An election judge from each party represented on the election board shall
3 give any assistance requested by electors in marking ballots or operating electronic
4 voting system devices.

5 ~~7-6.~~ Each member of the election board shall maintain order in the polling place.

6 **SECTION 3. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to**
9 **request, correct, and update incorrect information contained in the pollbook - Penalty.**

- 10 1. ~~Before delivering~~a member of an election board delivers a ballot to an individual
11 according to section 16.1-13-22, the poll clerks shall request the individual to show
12 identification, which includes the individual's residential address and date of birth.
13 ~~The~~An approved form of identification may include~~includes:~~
- 14 a. An official form of identification issued by the state;
 - 15 b. An official form of identification issued by a tribal government;
 - 16 c. A form of identification prescribed by the secretary of state; or
 - 17 d. A combination of any of the forms of identification under subdivisions a through c.
- 18 2. ~~If an individual offering to vote does not have or refuses to show an appropriate form~~
19 ~~of~~without identification or identification that does not list the current residential address
20 ~~of the individual~~, the individual may be allowed to vote ~~without being challenged~~
21 ~~according to section 16.1-05-06 if the individual provides to the election board the~~
22 ~~individual's date of birth and if a member of the election board or a poll clerk knows the~~
23 individual and can personally vouch that the individual is a qualified elector of ~~the~~a
24 precinct administered by the polling place. The individual shall provide the individual's
25 date of birth to the poll clerk entering the voter in the pollbook.
- 26 3. a. ~~If an individual offering to vote does not meet either of the options set forth in~~
27 ~~subsection 1 or 2, the election board shall challenge the individual's right to vote~~
28 ~~and the individual may not vote unless the individual executes a voter's affidavit,~~
29 ~~as provided in section 16.1-05-06.~~without identification or identification that does
30 not list the current residential address of the individual, the individual may be
31 allowed to vote if a qualified elector of the jurisdiction covered by the election

1 appears with the voter and can personally vouch that the individual is a qualified
2 elector of a precinct administered by the polling place. The vouching elector must
3 verify the vouching elector's qualification as an elector by showing to a poll
4 worker an approved form of identification set forth in subsection 1. The secretary
5 of state shall prescribe the form to be used for an elector to vouch for the
6 qualifications of an individual offering to vote. The elector verification form must
7 include:

8 (1) For the vouching elector, the following information:

- 9 (a) Full name;
- 10 (b) Complete residential and mailing address, if different;
- 11 (c) Contact telephone number;
- 12 (d) Date of birth;
- 13 (e) State-issued identification, if available;
- 14 (f) Signature; and
- 15 (g) A statement indicating the penalty for falsely vouching for another
16 individual's qualification as an elector; and

17 (2) For the individual offering to vote without identification or identification that
18 does not list the current residential address of the individual, the following
19 information:

- 20 (a) Full name;
- 21 (b) Complete residential and mailing address, if different;
- 22 (c) Contact telephone number;
- 23 (d) Date of birth;
- 24 (e) State-issued identification that does not list the current residential
25 address of the individual, if available;
- 26 (f) Signature; and
- 27 (g) A statement indicating the penalty for the individual making a false
28 statement regarding the individual's qualification as an elector.

29 b. The elector verification form under subdivision a is not an open record, but the
30 designation as such which is associated with the elector in the pollbook is an
31 open record.

- 1 c. In any election, a qualified elector of the state may vouch, on separate elector
2 verification forms, for the qualifications of no more than four individuals residing
3 with the elector in the same household as defined in section 54-64-01 or one
4 individual residing at a separate location within the boundaries of the jurisdiction
5 covered by the election. However, a qualified elector may not vouch for an
6 individual residing at a location within another county.
- 7 d. Within fourteen days after the election, the local official responsible for the overall
8 administration of the election shall review each elector verification form executed
9 by voters participating in the election. If there is any question about the
10 completed form or the qualifications as an elector of that political subdivision, of
11 the individual vouching for another, or the individual being vouched for, the
12 election official shall forward the forms and any other available information to the
13 state's attorney for further investigation. The state's attorney shall carefully review
14 any information forwarded and initiate an investigation in all cases in which fraud
15 is likely to exist. An elector knowingly vouching for an unqualified elector is guilty
16 of a class A misdemeanor for each unqualified elector vouched for by the elector.
- 17 4. a. When verifying an individual's eligibility or when entering the name of an
18 individual into the pollbook, poll clerks shall request, correct, and update any
19 incorrect or incomplete information about an individual required to be included in
20 the pollbook generated from the central voter file.
- 21 b. If the individual's name is contained in the pollbook generated from the central
22 voter file, the poll clerks shall verify the individual's residential address and
23 mailing address, if different from the individual's residential address.
- 24 c. If the individual's name is not contained in the pollbook generated from the
25 central voter file but the individual is determined eligible to vote, the poll clerks
26 shall record the individual's name in the pollbook. The poll clerks shall request
27 and obtain any additional information for the individual required to be included in
28 the pollbook.
- 29 d. An indication must be made in the pollbook for each individual allowed to vote via
30 the execution of an elector verification form.

1 5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct
2 to the proper precinct and voting location.

3 6. An individual who fails or refuses to comply with the requirements of this section may
4 not be allowed to vote.

5 **SECTION 4.** A new section to chapter 16.1-05 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Poll checkers.**

8 The district chairman of each political party represented on the election board may appoint
9 up to three poll checkers per polling place. A poll checker may not interfere with the election
10 process or with the members of the election board in the performance of the member's duties. A
11 poll checker may not be a member of the election board. The district chairman shall notify the
12 county auditor of each county contained in the legislative district one day before the day of the
13 election of the name of any individual the district chairman has appointed to serve as a poll
14 checker in the legislative district.

15 **SECTION 5. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **16.1-10-06.1. Paying for certain election-related activities prohibited.**

18 ~~No~~

19 1. A person may not pay another person any individual for:

20 1. a. Any loss or damage due to attendance at the polls;

21 2. b. Registering;

22 3. c. The expense of transportation to or from the polls; or

23 4. d. Personal services to be performed on the day of a caucus, primary election, or
24 any election which tend in any way, directly or indirectly, to affect the result of
25 such caucus or election.

26 ~~The provisions of this~~

27 2. This section does not apply to the hiring of a person an individual whose sole duty it
28 is to act as a challenger duties are to observe the polls and to watch the count of
29 official ballots.

30 **SECTION 6. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **58-04-09. Challenge to voter– Duty of judges.**

2 If any ~~person~~individual offering to vote at any election or upon any question arising at a
3 township meeting ~~is challenged as unqualified~~cannot verify the individual's qualifications as an
4 elector using the criteria provided in section ~~16.1-05-06~~16.1-01-04 and chapter 16.1-05, the
5 judges shall proceed in the manner in which judges at a general election are required to
6 proceed, adapting ~~the affidavit described in section 16.1-05-06~~ to the circumstances of the
7 township meeting.

8 **SECTION 7. REPEAL.** Section 16.1-05-06 of the North Dakota Century Code is repealed.

9 **SECTION 8. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY -**

10 **CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim,
11 the legislative management shall study residency as it relates to voting purposes, qualifications
12 of electors, all forms of absentee voting including in-person absentee, traditional absentee, and
13 voting by mail, and the further consolidation of political subdivision elections with regular
14 statewide elections. The legislative management shall report its findings and recommendations,
15 together with any legislation required to implement the recommendations, to the sixty-third
16 legislative assembly.