

Sixty-second  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1431**

Introduced by

Representatives Boehning, Carlson, Koppelman, Owens, Thoreson

A BILL for an Act to amend and reenact ~~subsection 4 of section 16.1-02-05, section 16.1-05-06, subdivision a of subsection 2 of section 16.1-07-15, and~~ section 16.1-11.1-01 of the North Dakota Century Code, relating to ~~the canvassing of ballots of voters whose eligibility to vote has been challenged, early voting precincts, and~~ mail ballot elections.

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

**SECTION 1. AMENDMENT.** ~~Subsection 4 of section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:~~

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

~~**SECTION 2. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**16.1-05-06. Challenging right to vote – Identification or affidavit required – Penalty for false swearing – Optional poll checkers.**~~

~~1. Three poll challengers appointed by the district chairman of each political party represented on the election board are entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than three poll challengers from each political party are entitled to be in attendance at each polling place at any one time.~~

1 ~~2. Any member of the election board may challenge the right of an individual to vote if the~~  
2 ~~election board member has knowledge or has reason to believe the individual is not a~~  
3 ~~qualified elector. A poll challenger may request members of the election board to~~  
4 ~~challenge the right of an individual to vote if the poll challenger has knowledge or has~~  
5 ~~reason to believe the individual is not a qualified elector of the precinct. A challenge~~  
6 ~~may be based upon any one of the following:~~

- 7 ~~a. The individual offering to vote does not meet the age or citizenship requirements.~~  
8 ~~b. The individual offering to vote has never voted in the precinct before, the name of~~  
9 ~~the individual offering to vote does not appear in the pollbook generated from the~~  
10 ~~central voter file, and the individual fails to provide reasonable evidence of~~  
11 ~~residency in the precinct.~~  
12 ~~c. Except as provided in section 16.1-01-05, the individual offering to vote physically~~  
13 ~~resides outside of the precinct.~~  
14 ~~d. The individual offering to vote does not meet the residency requirements~~  
15 ~~provided in section 16.1-01-04.~~  
16 ~~e. The individual offering to vote fails or refuses to provide an appropriate form of~~  
17 ~~identification as requested under subsection 3.~~

18 ~~3. If after an election board member has requested that the individual offering to vote~~  
19 ~~provide an appropriate form of identification to address any of the voting eligibility~~  
20 ~~concerns listed in subsection 2 and the identification is not provided or does not~~  
21 ~~adequately confirm the eligibility of the challenged individual, the challenged individual~~  
22 ~~may not vote unless the challenged individual executes an affidavit, acknowledged~~  
23 ~~before an election board member, that the challenged individual is a legally qualified~~  
24 ~~elector of the precinct.~~

25 ~~4. The affidavit must include:~~

- 26 ~~a. The name of the affiant.~~  
27 ~~b. The address of the affiant.~~  
28 ~~c. The birth date of the affiant.~~  
29 ~~d. The contact telephone number of the affiant.~~  
30 ~~e. The address of the affiant at the time the affiant last voted.~~  
31 ~~f. The previous last name of the affiant if it was different when the affiant last voted.~~

- 1 ~~g. The identification number and state of any state-issued identification regardless~~  
2 ~~of the state in which the identification was issued, if available.~~
- 3 ~~h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and~~  
4 ~~the rules for determining residence.~~
- 5 ~~i. Notice of the penalty for making a false affidavit and that the county auditor is~~  
6 ~~required to verify the affidavit.~~
- 7 ~~j. A statement that informs the affiant that the affiant may ensure that the affiant's~~  
8 ~~ballot will be counted if the affiant delivers verification of the affiant's eligibility to~~  
9 ~~vote to the county auditor within three days.~~
- 10 ~~k. A notice indicating that the affidavit is not an open record, but that information~~  
11 ~~identifying who voted after executing an affidavit is an open record as part of the~~  
12 ~~pollbook, except for any individual listed as secured active in the central voter file~~  
13 ~~under section 16.1-02-13.~~
- 14 ~~k.l. A place for the affiant to sign and swear to the affiant's qualifications as a voter.~~
- 15 ~~5. Written notice of the penalty for making a false affidavit and that the county auditor~~  
16 ~~shall verify the affidavits must be prominently displayed at the polling place in a form~~  
17 ~~prescribed by the secretary of state. An individual who falsely swears in order to vote~~  
18 ~~is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.~~
- 19 ~~6. The election inspector shall place the ballot of an individual who executes an affidavit~~  
20 ~~under this section in a secure envelope designed by the secretary of state to protect~~  
21 ~~the secrecy of the ballot. Each election inspector shall deliver to the county auditor a~~  
22 ~~list of the names of all individuals who executed an affidavit under this section and~~  
23 ~~each ballot cast by those individuals. The county auditor shall forward the ballot of~~  
24 ~~each affiant whose address has been verified as provided under subsection 4 to the~~  
25 ~~county canvassing board for canvassing and forward the remaining ballots to the~~  
26 ~~county canvassing board marked as "rejected as not an elector".~~
- 27 ~~7. The district chairman of each political party represented on the election board may~~  
28 ~~appoint poll checkers to a polling place, provided the poll checkers do not interfere~~  
29 ~~with the election process or with the members of the election board in the performance~~  
30 ~~of their duties. Poll challengers must be qualified electors of the district in which they~~  
31 ~~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 one 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.~~

~~**SECTION 3. AMENDMENT.** Subdivision a of subsection 2 of section 16.1-07-15 of the North Dakota Century Code is amended and reenacted as follows:~~

~~a. Early voting must be authorized during the fifteenseven days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the early voting center locations, dates, and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election.~~

**SECTION 1. AMENDMENT.** Section 16.1-11.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-01. Counties may conduct mail ballot elections - Polling places - Records.**

~~The qualified electors of a county having a population of fewer than fifteen thousand may petition the board of county commissioners to request that elections be held in the county by mail ballot. Upon receipt of a petition signed by at least ten percent of the qualified electors of the county as determined by the vote cast for the office of governor at the last general election, the board of county commissioners shall place on the ballot at the next primary or general election the question of whether mail ballots may be used in the county. If approved by over fifty percent of the qualified electors voting on the question, the board of county commissioners of a county may conduct any subsequent election by mail ballot. The~~A ~~mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board~~

~~at each polling place open on the day of the election a list of every person who applied for a mail ballot.~~

1. The board of county commissioners of a county, by resolution, may elect to conduct an election in the county by mail ballot.

2. The qualified electors of a county may petition the board of county commissioners to request that elections be conducted, or discontinue being conducted, in the county by mail ballot. Upon receipt of a petition signed by at least ten percent of the qualified electors of the county as determined by the vote cast for the office of governor at the last general election, the board of county commissioners shall place on the ballot at the next primary or general election the question of whether mail ballot elections may be used in the county. The board of county commissioners shall conduct subsequent elections in the manner determined by a majority vote of the qualified electors of the county.

3. A mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.

**SECTION 2. APPLICATION.** A county that is conducting elections by mail ballot before August 1, 2011, may continue to conduct elections by mail ballot.