

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 1, line 2, after the second comma insert "a new section to chapter 16.1-13, section 44-02-03.1,"

Page 1, line 15, remove "16.1-13-10,"

Page 1, line 20, remove "and"

Page 1, line 20, after "16.1-16-07" insert ", and 44-02-03"

Page 1, line 22, replace "and" with "16.1-13-10,"

Page 1, line 22, after "16.1-13-24" insert ", and 54-03-01.13"

Page 1, line 23, after "administration" insert "and to remove obsolete language"

Page 2, line 9, remove "an"

Page 2, line 10, remove "individual who seeks nomination for election or election to public office, and includes"

Page 5, line 21, replace "question" with "factual dispute"

Page 59, remove lines 25 through 31

Page 60, remove lines 1 through 31

Page 61, replace lines 1 through 10 with:

"SECTION 73. A new section to chapter 16.1-13 of the North Dakota Century Code is created and enacted as follows:

**Death or disqualification of legislative candidate.**

If a candidate for an office of a member of the legislative assembly who has died or become disqualified for the office receives enough votes to be elected except for the death or disqualification, a vacancy in the office is deemed to exist, and must be filled according to section 44-02-03.1. If an individual elected to the legislative assembly dies or becomes disqualified after the election but before the individual's term of office begins, a vacancy in the office exists and must be filled according to section 44-02-03.1 as if the individual's term of office had begun. An individual is disqualified for an office of a member of the legislative assembly if the individual fails to meet the qualifications under law for the office."

Page 80, after line 25, insert:

"SECTION 106. AMENDMENT. Section 44-02-03 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-03. Vacancy in state or district office - How filled.**

Any vacancy in a state or district office, except in the office of a member of the legislative assembly, must be filled by appointment by the governor. The governor may

not fill a vacancy in the office of a member of the legislative assembly. A vacancy in the office of a supreme court justice or district court judge must be filled as provided in chapter 27-25. If during a vacancy in the office of governor, the lieutenant governor and the secretary of state are impeached, displaced, resign, or die, or from mental or physical disease or otherwise become incapable of performing the duties of the office of governor as provided by sections 2 and 7 of article V of the Constitution of North Dakota, then the succession to the office of governor is the speaker of the house, president pro tem of the senate, attorney general, in the order named. Each succeeding person named shall hold the office of governor until the vacancy is filled by election or until any disability of the preceding person in the line of succession is removed.

**SECTION 107.** Section 44-02-03.1 of the North Dakota Century Code is created and enacted as follows:

**44-02-03.1. Vacancy in legislative assembly.**

1. If a vacancy in the office of a member of the legislative assembly occurs, the secretary of state shall notify the chairman of the legislative management of the vacancy. The secretary of state need not notify the chairman of the legislative management of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02.
2. Upon receiving notification of a vacancy, the chairman of the legislative management shall notify the district committee of the political party the former member represented, or the member-elect or deceased or disqualified candidate would have 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 to fill the vacancy. If the former member, member-elect, or deceased or disqualified candidate was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative management, the chairman of the legislative management shall appoint a resident of the district to fill the vacancy.
3. If a vacancy occurs because a member-elect died or became disqualified, or a candidate who died or became disqualified received a sufficient number of votes to be elected except for the death or disqualification, the term of an individual appointed to fill the vacancy begins on the first day of December of the year in which the vacancy occurs.
4. Except as provided in subsection 6:
  - a. If the office with the vacancy would not have been placed on the next general election ballot after the vacancy occurs had the member, member-elect, or candidate whose death, disqualification, or resignation created the vacancy been able and qualified to fulfill the term, the individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election that is at least ninety-four days after the vacancy occurs.
  - b. If the office with the vacancy would have been placed on the next general election ballot after the vacancy occurs had the member,

member-elect, or candidate whose death, disqualification, or resignation created the vacancy been able and qualified to fulfill the term and:

- (1) The next general election is scheduled to take place less than ninety-four days after the vacancy occurs:

    - (a) The individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election that is at least ninety-four days after the vacancy occurs; and
    - (b) The elected successor shall serve through November thirtieth of the following even-numbered year.
  - (2) The next general election is scheduled to take place at least ninety-four days after the vacancy occurs, the individual appointed shall serve until a successor is elected at and qualified following the next general election.
5. If a special election to fill the vacancy is called by the governor according to subsection 6, the individual elected at the special election shall serve for the remainder of the term of office which would have been served by the individual whose death, disqualification, or resignation created the vacancy.
6. The qualified electors of a legislative district in which a vacancy in the office of a member of the legislative assembly occurs due to the death, disqualification, or resignation of a member of the legislative assembly during the member's term of office 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 at least 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 2. 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 the notice, the governor shall issue a writ of election directed to the secretary of state commanding the secretary of state 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 title 16.1 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.
7. The secretary of state must be notified of an appointment made by a district committee or the chairman of the legislative management 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.

8. For purposes of addressing vacancies in offices of members of the legislative assembly, an individual is disqualified for an office if the individual fails to meet the qualifications under law for the office."

Page 81, line 3, replace "and" with "16.1-13-10,"

Page 81, line 3, after "16.1-13-24" insert ", and 54-03-01.13"

Renumber accordingly