

JANUARY 20, 2021

SENATE JUDICIARY COMMITTEE

SB 2193

MY NAME IS DAVID CLEMENS, SENATOR FROM DISTRICT 16 IN FARGO AND WEST FARGO. I AM HERE TO INTRODUCE SENATE BILL 2193. THIS BILL DEALS WITH THE LIMITING OF THE GOVERNOR DURING EMERGENCIES, RELATING TO ELECTION LAWS.

THE LEGISLATURE OF NORTH DAKOTA IS RESPONSIBLE FOR THE LAWS RELATING TO ELECTIONS IN NORTH DAKOTA. I BELIEVE THAT IT IS VERY IMPORTANT THAT THESE ELECTION LAWS REMAIN IN EFFECT AT ALL TIMES AS THEY WERE INTENDED.

AS WE HAVE SEEN DURING THIS CURRENT EMERGENCY DECLARATION, MANY AREAS OF OUR SOCIETY WERE FUNCTIONING WITH THE USE OF MASKS OR SOCIAL DISTANCING. THERE IS NO REASON THAT SOMETHING AS SIMPLE BUT IMPORTANT AS VOTING CAN NOT BE MANAGED AS WRITTEN IN LAW.

I HAVE ATTACHED NORTH DAKOTA CENTURY CODE 16.1-07-05 AND 37-17.1-05 WHICH I WILL SHARE WITH YOU. THIS BILL DOES NOT ALTER OR CHANGE EITHER ONE OF THESE, THEY REMAIN AS CURRENT LAW. WHAT THE BILL DOES IS PLACE A LIMITATION ON WHAT THE GOVERNOR CAN DO CONCERNING ELECTIONS. THE MAIN CONCERN IS THE AMOUNT OF ABSENTEE BALLOTS THAT ARE ISSUED. THE GOVERNOR, WHEN RELEASING AN EXECUTIVE ORDER, THIS ORDER HAS THE FORCE OF LAW.

I ASK YOU TO GIVE THIS BILL A FAVORABLE CONSIDERATION.

ANY QUESTIONS.

CHAPTER 16.1-07
ABSENT VOTERS' BALLOTS AND ABSENTEE VOTING

16.1-07-01. Absent voter.

Any qualified elector of this state may vote an absent voter's ballot at any general, special, or primary state election, any county election, or any city or school district election. An elector who votes by absentee ballot may not vote in person at the same election.

16.1-07-02. Elector may vote before leaving - No voting in person upon return.
Repealed by S.L. 1997, ch. 192, § 5.

16.1-07-03. Preparation and printing of ballots.
Repealed by S.L. 2011, ch. 154, § 19.

16.1-07-04. When ballots furnished proper officials.

The county auditor, or any other officer required by law to prepare any general, special, or primary state election ballots or any county election ballots, shall prepare, have printed, and deliver to the county auditor at least forty days before the holding of any general, special, or primary state election a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. In city or school elections, the auditor or clerk of the city, the business manager of the school district, or any other officer required by law to prepare city or school election ballots shall prepare and have printed and available for distribution to the public at least forty days before the holding of any city or school election a sufficient number of absent voter's ballots for the use of all voters likely to require such ballots for that election. Officers authorized to distribute absent voter's ballots under this chapter shall ensure all ballots used as absent voter's ballots are secure at all times and accessible only to those persons under the officer's supervision for distribution. If an election official personally distributes and collects an absent voter's ballot outside the election official's office, appointed election judges from an election board shall accompany the election official along with the ballot to and from the voter's location and be present while the voter is marking the ballot.

16.1-07-05. Time for applying for ballot - Emergency situations - Sufficient time for application and ballot return.

1. At any time in an election year, any qualified elector may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by personal delivery, facsimile, electronic mail or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form approved by the secretary of state, for an absent voter's ballot for a general, special, primary, county, city, or school election from the secretary of state, a county or city auditor, a candidate, a political party, or a political committee. The application form must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application.
2. No auditor or clerk may issue ballots for absentee voters on the day of the election except to individuals prevented from voting in person on the day of the election due to an emergency. An individual requesting an absentee ballot on the day of the election due to an emergency must do so through an agent as set forth in this chapter. An agent may represent only one individual. The absentee ballot must be returned to the county auditor's office by four p.m. on the day of the election.
3. A completed application must be submitted to the appropriate election official in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election.

10. "Wide area search and rescue" means the employment, coordination, and utilization of available resources and personnel in activities occurring within large geographical areas for the purpose of locating, relieving distress, and preserving the life of an individual reported or believed to be lost, stranded, or deemed a high-risk missing individual, and removing any survivor to a place of safety.

37-17.1-05. The governor and disasters or emergencies - Penalty.

1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.
4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary