

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

### ENGROSSED HOUSE BILL NO. 1165

Introduced by

Representatives Louser, Rohr, D. Ruby, Satrom, Schauer, Vetter, Lefor

Senators Boehm, Castaneda, Paulson, Roers, Hogue

*In place of the amendments (25.0536.03001) adopted by the Senate, Engrossed House Bill No. 1165 is amended by amendment (25.0536.03003) as follows:*

A BILL for an Act to amend and reenact section 4.1-20-16, subsection 1 of section 4.1-20-18, sections section 16.1-01-00.1 and, subsection 1 of section 16.1-01-09, section 16.1-01-15.1, subsection 3 of section 16.1-05-01, section 16.1-06-02, subdivision g of subsection 1 of section 16.1-06-04, section 16.1-07-07, subsection 4 of section 16.1-07-08, section 16.1-07-09, subsection 3 of section 16.1-07-21, section 16.1-07-24, subsection 2 of section 16.1-07-26, sections 16.1-11-27 and 16.1-11.1-04, subsection 1 of section 16.1-11.1-07, subsection 3 of section 16.1-12-02.2, and subsection 2 of section 16.1-13-05 of the North Dakota Century Code, relating to absentee ballots, election practices and administration; and to repeal sections 16.1-07-30 and 40-21-10 of the North Dakota Century Code, relating to election notices and municipal voter registration.

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

**SECTION 1. AMENDMENT.** Section 4.1-20-16 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-20-16. Nominating petitions - Petitions required - Final filing date.**

1. Any individual running for the office of supervisor shall present to the county auditor of the county in which the district lies a petition giving that individual's name and mailing address and the title and term of the office, and containing the signatures of not less than twenty-five nor more than three hundred qualified electors of the district. When a district lies in more than one county, the petition must be filed with the county auditor of the county where the candidate resides, and that county auditor shall certify to the

county auditors of the other counties in which the district lies the name and mailing address of the candidate filing such petition. ~~At the same time, the county auditor, or auditors in the case of multicounty districts, also shall certify to the secretary of state the name and mailing address of each individual filing a nominating petition according to this section.~~

2. An individual may not participate directly or indirectly in the nomination for more than one individual for each office to be filled. The final filing date for nominating petitions is no later than four p.m. sixty-four days before the day of the election.

3. Upon receipt of the petition or the certification as provided in this section, the county auditor shall place, without fee, the name of the candidate so nominated on the no-party ballot at the ensuing general election.

**SECTION 2. AMENDMENT.** Subsection 1 of section 4.1-20-18 of the North Dakota Century Code is amended and reenacted as follows:

1. At each general election, one district supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. The county auditor of the county or counties in which the district lies shall ~~return to the secretary of state before four p.m. on the tenth day following any general election a certified abstract of the votes cast in the county at the election for each candidate for district supervisor. The secretary of state shall canvass the returns and issue certificates of election under chapter 16.1-15~~ canvass the returns and issue certificates of election under chapter 16.1-15. When a district lies in more than one county, the county auditor of the county in which the candidate resides shall issue the certificate of election.

**SECTION 3. AMENDMENT.** Section 16.1-01-00.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-01-00.1. Definitions.**

~~For purposes of~~ As used in this title, unless the context otherwise requires, "~~candidate~~" means:

1. "Candidate" means:

a. An individual holding public office;

2. b. An individual who publicly has declared that individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
3. c. An individual who has formed a campaign or other committee for that individual's candidacy for public office;
4. d. An individual who has circulated a nominating petition to have that individual's name placed on the ballot; and
5. e. An individual who, in any manner, has solicited or received a contribution for that individual's candidacy for public office, whether before or after the election for that office.

2. "Complete residential address" means the description of an individual's physical residence, which includes a house or unit number, street, city, state, zip code, general delivery, or rural route address.

**SECTION 4. AMENDMENT.** Subsection 1 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

1. a. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals.
- b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval.  
~~An approved statement must be affixed to the petition before it is circulated for signatures, must be called the "petition title", and must be placed immediately before the full text of the measure.~~
- c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.

d. An approved statement must be affixed to the petition by the sponsoring committee. The statement must be called the "petition title" and placed immediately before the full text of the measure. The petition packet, including the approved statement and affidavits from the sponsoring committee members, must be submitted for final review by the secretary of state within fifteen business days, excluding Saturdays, before the petition can be approved to circulate for the collection of signatures. Petition packets and affidavits not received within fifteen business days are considered withdrawn.

**SECTION 5. AMENDMENT.** Section 16.1-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-01-15.1. Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. The state or any political subdivision of this state may not use a private entity to administer an election.
3. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor.

**SECTION 6. AMENDMENT.** Subsection 3 of section 16.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

3. If at any time before or during an election, it appears to ~~an election inspector, by the affidavit of two or more qualified electors of the precinct, or precincts for a multiprecinct polling place,~~ a county auditor that any election judge is disqualified under this chapter, the auditor shall order the election inspector ~~shall~~ to remove that judge at once and ~~shall~~ fill the vacancy by appointing a qualified individual of the same political party as that of the judge removed. If the disqualified judge had taken the oath of office as prescribed in this chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.

1       **SECTION 7. AMENDMENT.** Section 16.1-06-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **16.1-06-02. Ballots prepared by county auditor or local official - Penalty.**

4       For a local election, the ballots must be printed and distributed under the direction of the  
5 auditor or clerk of the local subdivision. For all other elections, the secretary of state shall  
6 prescribe a ballotsprinting vendor. Ballots must be printed and distributed under the direction of  
7 the county auditor, subject to the supervision and approval of the secretary of state as to the  
8 legal sufficiency of the form, style, wording, and contents of the ballots. If an auditor or clerk of a  
9 local subdivision, a county auditor, or the secretary of state causes or approves the printing of a  
10 ballot listing an individual as a candidate when the official knows or should know the individual  
11 does not meet the qualifications, or has not satisfied the requirements to be a candidate, the  
12 official is guilty of an infraction.

13       **SECTION 8. AMENDMENT.** Subdivision g of subsection 1 of section 16.1-06-04 of the  
14 North Dakota Century Code is amended and reenacted as follows:

- 15           g. Provide text boxes at the bottom of the first side of the ballot. The text box at the  
16 bottom of the first column is to contain the words "Official Ballot, the name of the  
17 county, the name or number of the precinct, and the date of the election". The  
18 text box is to contain the words "All ballots, other than those used to vote  
19 absentee, must first be initialed by appropriate election officials in order to be  
20 counted". The text box at the bottom of the third column is to contain the word-  
21 "initials"phrase "election official initials" preceded by a blank line where the judge  
22 or inspector shall initial the ballot.

23       **SECTION 9. AMENDMENT.** Section 16.1-07-07 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25       **16.1-07-07. Delivering application form for ballot.**

26       The officers specified in section 16.1-07-05, upon request, shall provide an application form  
27 for an absent voter's ballot to the voter or may deliver the application form to the voter upon a  
28 personal application made at the officer's office. The officers ~~may~~ also may make available or  
29 distribute the applications, prescribed by the secretary of state, to the public without any specific  
30 request being made for the applications. For every primary, general, special statewide, district,

1 or county election, the county auditor shall mail the applications in an envelope prescribed by  
2 the secretary of state.

3 **SECTION 10. AMENDMENT.** Subsection 4 of section 16.1-07-08 of the North Dakota  
4 Century Code is amended and reenacted as follows:

- 5 4. For every primary, general, special statewide, district, or county election, the county  
6 auditor shall use the outgoing, return, and secrecy envelopes prescribed by the  
7 secretary of state. If there is more than one ballot to be voted by an elector of the  
8 precinct and the voting system will be unable to tabulate one or more of the ballots,  
9 one of each kind must be included and a secrecy envelope and a return envelope  
10 must be enclosed with the ballot or ballots. The front of the return envelope must bear  
11 the official title and post-office address of the officer supplying the voter with the ballot  
12 and upon the other side a printed voter's affidavit in substantially the following form:

13 Precinct \_\_\_\_\_

14 Name \_\_\_\_\_

15 Residential Address \_\_\_\_\_

16 City \_\_\_\_\_ ND Zip Code \_\_\_\_\_

17 Under penalty of possible criminal prosecution for making a false  
18 statement, I swear that I reside at the residential address provided  
19 above, that I have resided in my precinct for at least thirty days  
20 next preceding the election, and this is the only ballot I will cast  
21 in this election.

22 Applicant's Signature \_\_\_\_\_

23 Date \_\_\_\_\_

24 The signature on this affidavit will be compared to the signature on the  
25 affidavit included in the application for the absentee ballot.

26 **SECTION 11. AMENDMENT.** Section 16.1-07-09 of the North Dakota Century Code is amended and  
27 reenacted as follows:

28 **16.1-07-09. Canvassing of mailed absent voter's ballot received late.**

29 1. In congressional, state, county, city, or school district elections, ~~if an envelope~~  
30 ~~postmarked or otherwise officially marked by the United States postal service or other~~  
31 ~~mail delivery system before the date of election and~~ containing an absent voter's ballot

1 must be received by the officer before the close of polls on election day. An absent  
2 voter's ballot ~~is received by the officer after election day, the ballot must be tallied~~  
3 ~~by~~after the close of polls on election day must be forwarded to the canvassing board  
4 of the county, the governing body of the city, or the school board of the school district,  
5 as the case may be, at the time the returns are canvassed. ~~Any envelope without a~~  
6 ~~postmark or other official marking by the United States postal service or other mail~~  
7 ~~delivery system or with an illegible postmark or other official marking and containing~~  
8 ~~an absentee voter's ballot must be received by mail by the proper officer prior to the~~  
9 ~~meeting of the~~

10 2. Before forwarding a ballot to the canvassing board under this section, the officer

11 forwarding the ballot shall print the date and time of receipt on the envelope. An

12 absent voter may personally deliver the absent voter's ballot to the appropriate  
13 officer's office at any time before ~~five p.m.~~the close of polls on ~~the day before the~~  
14 election day. Any envelope containing an absent voter's ballot ~~with a postmark or~~

15 ~~official date stamp on~~received after the ~~day of~~close of polls on election ~~or~~

16 ~~thereafter~~day may not be tallied with the ballots timely submitted for the election.

17 ~~Before forwarding any ballot to a canvassing board pursuant to this section, the officer~~

18 ~~forwarding the ballot shall print the date of receipt on the envelope.~~ Upon receipt, the

19 canvassing board shall determine that the elector was qualified to vote in that precinct,

20 that the elector did not previously vote in that precinct on the date of the election, and

21 that the signatures on the absentee ballot application and the voter's affidavit were

22 signed by the same individual before allowing the ballot to be tallied.

23 **SECTION 12. AMENDMENT.** Subsection 3 of section 16.1-07-21 of the North Dakota  
24 Century Code is amended and reenacted as follows:

- 25 3. A covered voter may use the declaration accompanying the federal write-in absentee  
26 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act  
27 [42 U.S.C. 1973ff-2] as an application for a military-overseas ballot simultaneously  
28 with the submission of the federal write-in absentee ballot, if the declaration is  
29 received by the appropriate election official by ~~midnight on the day before the~~ close of  
30 polls on election day.

**SECTION 13. AMENDMENT.** Section 16.1-07-24 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-24. Timely casting of ballot.**

To be valid, a military-overseas ballot must be submitted for mailing or other authorized means of delivery not later than ~~11:59 p.m. on the day before~~ the close of polls on election day at the place where the voter completes the ballot. A military-overseas ballot must be received by the appropriate election official before the canvassing board meeting.

**SECTION 14. AMENDMENT.** Subsection 2 of section 16.1-07-26 of the North Dakota Century Code is amended and reenacted as follows:

2. If, at the time of completing a military-overseas ballot and balloting materials, the voter has affirmed under penalty of perjury under section 16.1-07-27 that the ballot was timely submitted, the ballot may not be rejected on the basis that it ~~has a late postmark, an unreadable postmark, or no postmark~~ was received by the officer after the close of polls on election day.

**SECTION 15. AMENDMENT.** Section 16.1-11-27 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-27. Arrangement of names on ballots.**

Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct ~~in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled. In the event that this determination is no longer possible due to changes in precinct boundaries, the precincts are to be~~ and ordered according to the precincts with the greatest ~~voting age~~ eligible voter population to the least. ~~This information is to be provided by the North Dakota state data center or based on the best available data as determined by the county auditor.~~ On the official ballot used at the election, including electronic voting system ballots, the names of candidates beside or under headings designating each office to be voted for must be alternated in the following manner:

1. The ballot must first be arranged with all the names for each office on the ballot in an order determined by lot by the county auditor and prepared by the county auditor for all state, district, and county offices. The position of names that require alternating under the provisions of this section must be alternated by an algorithm approved by the secretary of state designed to ensure to the extent possible that each name on the



ballot for an office is listed in each position order on an equal number of precinct ballots spread across the county. There must be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:

- a. Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
- b. Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.

2. Although the names are to be alternated within the offices on the ballot, the name order for an office is to be the same for all ballots within a precinct.

**SECTION 16. AMENDMENT.** Section 16.1-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-04. Voting by electors.**

Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope, and comply with the instructions provided with the ballot. The elector may return the completed ballot to the county auditor by mail or, ~~before five p.m. on the day before~~by the close of polls on election day, to any other place of deposit designated by the auditor. The elector may not deliver the completed ballot to an election board at a polling location. If the elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be ~~postmarked no later than the day before~~received by the officer by the close of polls on election day.

**SECTION 17. AMENDMENT.** Subsection 1 of section 16.1-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

1. The ballot is returned in the return identification envelope ~~with a postmark or official date stamp of at least the day before~~by the close of polls on election ~~and received prior to the meeting of the canvassing board~~day;

**SECTION 18. AMENDMENT.** Subsection 3 of section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

3. An individual who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the secretary of state. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the ~~fourth~~twenty-first day before the election.

1       **SECTION 19. AMENDMENT.** Subsection 2 of section 16.1-13-05 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           2.    The county auditor shall publish a copy of the sample ballot of the general election  
4               once each week for two consecutive weeks before the election in the official county  
5               newspaper. If no newspaper is published in the county, the publication must be in a  
6               newspaper published in an adjoining county in the state. The form of the sample ballot  
7               as ordered and arranged by the county auditor must conform in all respects to the  
8               form prescribed by the secretary of state for the sample general election ballot. The  
9               county auditor shall publish the sample ballot in all forms appropriate for the method or  
10              methods of voting in the county. Candidates from each legislative district within the  
11              boundaries of the county must be listed in a separate box or category within the  
12              sample ballot by legislative district number to enable the voters in each legislative  
13              district to ascertain the legislative candidates in their specific district. Sample ballots  
14              used for publication purposes must be arranged ~~using the rotation of the ballot in the~~  
15              ~~precinct in the county that cast the highest total vote for governor at the last general~~  
16              ~~election at which the office of governor was filled~~in accordance with section  
17              16.1-11-27. The notice must include a statement in substantially the following format:  
18              The arrangement of candidate names appearing on ballots in your precinct may vary  
19              from the published sample ballots, depending upon the precinct and legislative district  
20              in which you reside.

21       **SECTION 20. REPEAL.** Sections 16.1-07-30 and 40-21-10 of the North Dakota Century  
22 Code are repealed.