

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2158
(Senators Watne, Schobinger)

AN ACT to amend and reenact sections 16.1-11-18 and 16.1-12-08 of the North Dakota Century Code, relating to filling election candidate vacancies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-11-18 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-18. Party committees to fill vacancy occurring in nomination for party office.

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy may not be filled except by petition.
4. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the proper state ~~or district~~ executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state ~~the a~~ certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state, ~~in certifying~~ shall certify the new nomination to the various auditors, shall insert and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded ~~his the~~ certificate, ~~he the~~ secretary of state forthwith shall certify to the ~~auditor of the proper county or counties auditors~~ the name and ~~post-office~~ address of the ~~person nominated to fill a vacancy new~~ nominee, the office ~~he the new nominee~~ is nominated for, the party or political principle ~~he the new nominee~~ represents, and the name of the person for whom the new nominee is substituted substituting. Failure to publish the name of a ~~person substituted new nominee~~ does not invalidate the election.
5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the county auditor of the new nominee's county of residence. The chairman and secretary of the committee shall make and file with the county auditor of the new nominee's county of residence a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further

information as may be required to be given in an original certificate of nomination. When the certificate is filed, the county auditor of the new nominee's county of residence shall certify the new nomination to the various auditors affected by the change and to the secretary of state by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.

With the exception of vacancies filled pursuant to section 16.1-12-08, vacancies to be filled according to the provisions of ~~subsection 1, 2, or 3~~ of this section may be filled not later than ~~fifty-six~~ sixty days prior to the election, ~~and vacancies to be filled according to the provisions of subsection 4 may be filled not later than fifty-five days prior to the election.~~

SECTION 2. AMENDMENT. Section 16.1-12-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-08. Vacancy occurring on ballot before election day but after ballots are printed - Stickers used. If a vacancy occurs before four p.m. on the eighteenth day before the election day and after the ~~printing of the ballots~~ sixtieth day before the election, and any person is nominated before four p.m. on the eighteenth day before the election according to the provisions of ~~this title~~ subsections 4 and 5 of section 16.1-11-18 to fill the vacancy, the officer whose duty it is to have the ballots printed and distributed shall have printed on a requisite number of stickers the name of the substitute candidate and no other name. Stickers must be printed on the same color paper as the ballots to which they will be affixed. The officer shall send the stickers by a reliable method to the judges of election in the various precincts affected by the vacancy. The judges of election whose duty it is to distribute the ballots shall affix the stickers in the proper place on each ballot before it is given to the elector and shall cross out or otherwise obliterate the name of the original nominee causing the vacancy.

A vacancy under this section must be deemed to exist when a candidate nominated at the primary election dies or otherwise becomes disqualified to have the candidate's name printed on the ballot at the general election.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2158.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 92 Nays 0 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,
at _____ o'clock _____ M.

Secretary of State