

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. 2175
(Senators Grindberg, Robinson)
(Representatives Carlson, Fairfield, Grande)

AN ACT to amend and reenact sections 16.1-06-06, 16.1-07-09, 16.1-09-02, 16.1-11-13, 16.1-11-19, 16.1-15-17, 16.1-15-22, and 44-08-21 of the North Dakota Century Code, relating to general election ballots for persons authorized to vote for presidential electors only, canvassing late absentee ballots, presidential candidates personal disclosure statements, filing of certificates with the secretary of state showing the names and addresses of persons nominated in the county by county auditors, filling vacancies existing on the no-party ballot, time when county canvassing boards are required to meet, recall elections, and deadlines for candidates to file in recall elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

16.1-06-06. General election ballots for persons authorized to vote for federal offices presidential electors only - Prepared separately - General law governs. In addition to the ballots prepared pursuant to section 16.1-06-05, ballots must be prepared containing only the names of duly certified candidates for presidential electors for use by persons authorized to vote for those offices by law. The provisions of this title regarding the preparation, form, arrangement of names, delivering, and stamping of ballots must govern in regard to the general election ballot prepared pursuant to this section. The ballots prepared pursuant to this section must be delivered to electors who qualify only to vote for presidential electors pursuant to sections ~~16.1-01-04~~, 16.1-14-18, and 16.1-14-19.

SECTION 2. AMENDMENT. Section 16.1-07-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-07-09. Canvassing of mailed absent voters' ballots received late. In the case of congressional, state, county, city, or school district elections, if an envelope postmarked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark by the United States postal service or other mail delivery system or with an illegible postmark and containing an absentee voter's ballot must be received by mail by the proper officer within ~~forty-eight hours after the closing of the polls on election day~~ two days after the election to be canvassed and counted. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date and hour of receipt on the envelope. Upon receipt, the canvassing board shall first determine that the elector was qualified to vote in that precinct and that the elector did not previously vote in that precinct on the date of the election before allowing the ballot to be tallied.

SECTION 3. AMENDMENT. Section 16.1-09-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-09-02. Statement of interests to be filed. Every candidate for elective office shall file a statement of interests as required by this chapter. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal

disclosure statement that is required by the federal election commission. A candidate for elective office shall file the statement of interests with the officer with whom the candidate filed the candidate's certificate of nomination, certificate of endorsement, or petition of nomination. Candidates for elective office who are required to file such statements shall do so at the time of filing a certificate of nomination, a certificate of endorsement, or a petition of nomination, pursuant to chapter 16.1-11, 16.1-12, or 40-21, as is appropriate; provided, that any person who has filed a statement as the result of candidacy in a primary election need not refile prior to running in the following general election. Every person who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment.

SECTION 4. AMENDMENT. Section 16.1-11-13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-13. Filing petition or certificate of endorsement when legislative district composed of more than one county - Certificate of county auditor. When a legislative district is composed of more than one county, the certificate of endorsement or the petition provided for in section 16.1-11-11 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 comprising the legislative district the names and addresses of the candidates filing the petitions or certificates. At the same time, the county auditor shall certify to the secretary of state the names and addresses of all legislative candidates nominated in the county under this chapter.

SECTION 5. AMENDMENT. Section 16.1-11-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of filing. If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the fifty-sixth day prior to the primary election, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the fifty-sixth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the fifty-sixth day prior to the primary election, a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the county auditor before four p.m. on the fifty-sixth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors ~~equal in number to at least thirty percent of the total vote cast for governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required~~ as provided in subdivision c of subsection 2 of section 16.1-11-11. A vacancy in the no-party ballot must be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have his name printed on the ballot.

SECTION 6. AMENDMENT. Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass. ~~As soon as the returns are received by the county auditor~~ Not earlier than the third day following each election, but not later than six days after each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or

both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

SECTION 7. AMENDMENT. Section 16.1-15-22 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election. The county auditor of each county, under ~~his~~ the auditor's official seal, shall return to the secretary of state by registered or certified mail within ten days after the day of any primary election, a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in ~~his~~ the auditor's county and the votes cast for every candidate for nomination for United States senator, United States representative, state officers, judges of the supreme court, judges of the district court, and members of the legislative assembly. ~~The county auditor also shall file with the secretary of state a certificate showing the names and addresses of the persons nominated under the several political designations and principles in his county. The certified abstract and the certificate of nomination to be mailed under the provisions of this section must be in the possession of the secretary of state before four p.m. on the tenth day after the primary election.~~

SECTION 8. AMENDMENT. Section 44-08-21 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

44-08-21. Recall of elected officials of political subdivisions. An elected official of a political subdivision, except an official subject to recall pursuant to section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections, except in any political subdivision with a population of not more than one hundred, the petition must be signed by at least six electors. The provisions of section 16.1-01-09, as they relate to signing and circulating recall petitions, apply to petitions under this section.

The petition may include the stated reason for the recall and must be filed with the official with whom a petition for nomination to the office in question is filed unless that official is the person subject to recall, in which case the petition must be filed with the secretary of state. The official with whom the petition is filed shall pass on the sufficiency of a petition under this section in the manner required of the secretary of state under section 16.1-01-10. Except as otherwise provided in this section, the official shall call a special election to be held within ~~forty~~ sixty days if the official finds the petition valid and sufficient. No special election may be called if the date would be within ninety days of the next scheduled election. An elector's name may not be removed from a recall petition.

The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate official by the thirty-third day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint a person to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected.

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. 2175.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 91 Nays 0 Absent 6

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