

HOUSE BILL NO. 1250

Introduced by

Representatives Schmidt, Boucher, Gulleson, Solberg

Senators Every, Nelson

1 A BILL for an Act to amend and reenact sections 16.1-13-10 and 44-02-02 of the North Dakota
2 Century Code, relating to filling a vacancy in a legislative office and resignation of a member of
3 the legislative assembly.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 16.1-13-10 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **16.1-13-10. Vacancy existing in office of member of legislative assembly - Special**
8 **election to fill.** If a vacancy in the office of a member of the legislative assembly occurs, the
9 county auditor of the county in which the former member resides or resided shall notify the
10 ~~chairman of the legislative council~~ governor of the vacancy. The county auditor need not notify
11 the ~~chairman of the legislative council~~ governor of the resignation of a member of the legislative
12 assembly when the resignation was made under section 44-02-02. Upon receiving notification
13 of a vacancy, the ~~chairman of the legislative council shall notify the district committee of the~~
14 ~~political party that the former member represented in the district in which the vacancy exists.~~
15 ~~The district committee shall hold a meeting within twenty one days after receiving the~~
16 ~~notification and select an individual to fill the vacancy. If the former member was elected as an~~
17 ~~independent candidate or if the district committee does not make an appointment within~~
18 ~~twenty one days after receiving the notice from the chairman of the legislative council, the~~
19 ~~chairman of the legislative council shall appoint a resident of the district to fill the vacancy. If~~
20 ~~eight hundred twenty eight days or more remain until the expiration of the term of office for that~~
21 ~~office, the individual appointed to fill the vacancy shall serve until a successor is elected at the~~
22 ~~next general election to serve for the remainder of the term of office for that office~~ governor, if
23 there is a session of the legislative assembly between the time the vacancy occurs and the time
24 of the holding of the next general election, shall issue a writ of election directed to the auditor of

1 each affected county directing the auditor to notify the boards of election in the county or district
2 in which the vacancy exists to hold a special election to fill the vacancy at a time designated by
3 the governor. If there is no session of the legislative assembly between the time the vacancy
4 occurs and the time of the holding of the next general election, the special election must be held
5 at the same time as the general election. If the term of office of the member whose office is
6 vacated expires before the next session of the legislative assembly, no election may be held to
7 fill the vacancy.

8 **SECTION 2. AMENDMENT.** Section 44-02-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **44-02-02. Resignations of officers - To whom made.** The resignation of an officer
11 must be in writing and must be made as follows:

- 12 1. The governor and lieutenant governor, to the legislative assembly, if it is in session,
13 and if not, to the secretary of state.
- 14 2. Any other state or district officer, to the governor.
- 15 3. A member of the legislative assembly, to the presiding officer of the branch of
16 which the individual is a member, when in session, and when not in session, to the
17 ~~chairman of the legislative council~~ governor. When made to the presiding officer,
18 the presiding officer at once shall notify the ~~chairman of the legislative council~~
19 governor of the resignation.
- 20 4. An officer of the legislative assembly, to the branch of which the individual is an
21 officer.
- 22 5. An elective county officer, by filing or depositing the resignation in the office of the
23 county auditor, except that the resignation of the county auditor must be filed or
24 deposited with the board of county commissioners. Any resignation under this
25 subsection, unless a different time is fixed therein, takes effect upon the filing or
26 deposit.
- 27 6. An officer of a civil township, to the board of supervisors of the township, except
28 that a member of the board shall submit the member's resignation to the township
29 clerk, and the township clerk forthwith shall give to the county auditor notice of the
30 resignation of all officers whose bonds are filed with that officer.

Fifty-eighth
Legislative Assembly

- 1 7. Any officer holding office by appointment, to the body, board, court, or officer which
2 appointed the officer.