

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2288
(Senators Dever, Nelson, O'Connell)
(Representatives Carlisle, Delmore, Haas)

AN ACT to create and enact a new section to chapter 16.1-03 of the North Dakota Century Code, relating to requirements for political parties conducting presidential preference caucuses; to amend and reenact sections 16.1-11-15, 16.1-11-30, and 16.1-12-02 and subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to circulating petitions to establish a political party, independent nominations for president of the United States, and rules adopted by the secretary of state for the presidential preference contest; and to repeal sections 16.1-11-02, 16.1-11-02.1, 16.1-11-02.3, 16.1-11-03, and 16.1-11-04 of the North Dakota Century Code, relating to the presidential preference contest.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-03 of the North Dakota Century Code is created and enacted as follows:

Political parties may conduct presidential preference caucuses.

1. On one designated day, following presidential nominating contests in the states of Iowa and New Hampshire and prior to the first Wednesday in March in every presidential election year, every political party entitled to a separate column under section 16.1-11-30 may conduct a presidential preference caucus.
2. Before August fifteenth of the odd-numbered year immediately preceding the presidential election year, the secretary of state shall designate the day after consulting with and taking recommendations from the two political parties casting the greatest vote for president of the United States at the most recent general election when the office of president of the United States appeared on the ballot.
3. A political party entitled to conduct a presidential preference caucus must notify the secretary of state before September first of the odd-numbered year immediately preceding the presidential election year if the political party will conduct a presidential preference caucus in that presidential election year according to this section. If selected by a political party, the results of a presidential preference caucus must be used to instruct delegates attending the political party's national political convention.
4. A political party that establishes itself according to section 16.1-11-30 after September first of the odd-numbered year immediately preceding the presidential election year and before the day designated by the secretary of state according to subsection 2 is entitled to conduct a presidential preference caucus according to this section. The political party is entitled to conduct a presidential preference caucus on the day designated by the secretary of state according to subsection 2 and shall notify the secretary of state of the political party's intent to conduct a presidential preference caucus at the time it establishes itself.
5. Before the presidential preference caucuses, the legislative district chairman of each participating party shall issue the call for the presidential preference caucus, which may be held in conjunction with any other caucuses or meetings of the political party that are scheduled for the purpose of endorsing legislative candidates or selecting officers of the legislative district, at least thirty days before the time set for holding the caucus. At the

time of making the call, the district chairman shall notify the secretary of state of the information contained in the call, which must include the following:

- a. Name of the party.
 - b. Precinct number or name.
 - c. Date of caucus.
 - d. Place of caucus.
 - e. Hours of caucus.
 - f. A statement of the business to be conducted, including the nomination of a candidate for president of the United States.
 - g. The name of the district chairman issuing the call.
6. The district chairman shall provide ten days' published notice in the official county newspaper in circulation within each precinct in the district. The notices must contain that information set forth in subsection 5.
7. A presidential preference caucus must be conducted in the manner provided in this chapter with the exception that a political party is not required to hold individual caucuses in every election precinct throughout a legislative district. Only those persons who either voted or affiliated with the political party at the last general election or intend to vote or affiliate with the political party at the next general election may participate and vote at the presidential preference caucus.
8. Unless specifically forbidden by national party rules, the voting delegates selected by political parties are bound to cast their first ballots at the political party's national convention in the same proportion as the total votes cast for all candidates for president of the United States at the political party's presidential preference caucus. If political party rules do not allow apportionment of a delegate and such an apportionment appears necessary because a candidate did not receive more than one-half of a delegate, those partial delegates must be assigned to the candidate receiving the highest number of votes at the caucus. If a candidate withdraws before voting begins on the first ballot, delegates obligated to vote for the candidate on the first ballot are released from that obligation.
9. Every political party entitled to a separate column under section 16.1-11-30 that chooses not to conduct a presidential preference caucus is entitled to nominate a presidential candidate and select presidential electors for inclusion on the general election ballot in the presidential election year according to section 16.1-03-14.

SECTION 2. AMENDMENT. Section 16.1-11-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-15. Nominating petition not to be circulated more than ninety days prior to filing time. No nominating petition provided for in ~~this chapter~~ sections 16.1-11-06 and 16.1-11-11 may be circulated or signed more than ninety days previous to the time when any petition must be filed under the provisions of this chapter. Any signatures to a petition secured more than ninety days before that time may not be counted.

SECTION 3. AMENDMENT. Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-30. Separate column on primary election ballot required for each political party. Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or

a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election or has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column or on a special election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If the petition is mailed it must be in the possession of the secretary of state before four p.m. on the sixtieth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election are entitled to organize according to the requirements of chapter 16.1-03.

~~Within the consolidated column, the group of candidates for each organization must be inverted from the next group appearing in that column.~~

SECTION 4. AMENDMENT. Section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02. Certificates of nomination by petition - Form and contents. Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. ~~The~~ Except for nominees for president of the United States, names of nominees so nominated must appear on the ballot as independent nominations. The names of nominees for president of the United States may appear on the ballot with a designation, not to exceed five words, that names the organization or political party to which the presidential candidate affiliates. The designation may not falsely indicate an affiliation with or the support of any political party organized in accordance with this title or include any substantive word or phrase that is profane or that is already included in or resembles the name of a political party entitled to a separate column under section 16.1-11-30. Each certificate of nomination by petition must meet the specifications for nominating petitions set forth in section 16.1-11-16. The signatures on the petition must be in the following number:

1. Except as provided in subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
3. If the nomination is for the office of president, there must be no fewer than four thousand signatures.
4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

SECTION 5. AMENDMENT. Subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Administrative agency" or "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency must be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:
 - a. The office of management and budget except with respect to rules made under section 32-12.2-14, rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the central personnel system as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.
 - b. The adjutant general with respect to the division of emergency management.
 - c. The council on the arts.
 - d. The state auditor.
 - e. The department of commerce with respect to the division of economic development and finance.
 - f. The dairy promotion commission.
 - g. The education factfinding commission.
 - h. The educational technology council.
 - i. The board of equalization.
 - j. The board of higher education.
 - k. The Indian affairs commission.
 - l. The industrial commission with respect to the activities of the Bank of North Dakota, North Dakota housing finance agency, North Dakota municipal bond bank, North Dakota mill and elevator association, and North Dakota farm finance agency.
 - m. The department of corrections and rehabilitation except with respect to the activities of the division of adult services under chapter 54-23.4.
 - n. The pardon advisory board.
 - o. The parks and recreation department.
 - p. The parole board.
 - q. The state fair association.
 - r. The state department of health with respect to the state toxicologist.
 - s. The board of university and school lands except with respect to activities under chapter 47-30.1.
 - t. The administrative committee on veterans' affairs except with respect to rules relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.

- u. The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.
- v. ~~The secretary of state with respect to rules adopted for the presidential preference contest under section 16.1-11-02.3.~~
- w. The attorney general with respect to guidelines adopted under section 12.1-32-15 for the risk assessment of sexual offenders, the risk level review process, and public disclosure of information under section 12.1-32-15.

SECTION 6. REPEAL. Sections 16.1-11-02, 16.1-11-02.1, 16.1-11-02.3, 16.1-11-03, and 16.1-11-04 of the North Dakota Century Code are repealed.

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-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2288.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 73 Nays 6 Absent 15

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,

at _____ o'clock _____ M.

Secretary of State