

SENATE BILL NO. 2248

Introduced by

Senators Fischer, Traynor, Trenbeath

Representatives Delmore, Devlin, Price

1 A BILL for an Act to create and enact a new section to chapter 16.1-07 of the North Dakota
2 Century Code, relating to early voting precincts; to amend and reenact sections 16.1-07-05,
3 16.1-07-06, 16.1-07-07, and 16.1-07-08 of the North Dakota Century Code, relating to
4 applications for absent voter's ballots and absentee voting.

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

6 **SECTION 1. AMENDMENT.** Section 16.1-07-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **16.1-07-05. Time for applying for ballot.** At any time in an election year, any qualified
9 elector may apply directly to the county auditor, the auditor or clerk of the city, or the business
10 manager of the school district, as the case may be, by facsimile or otherwise, for an official
11 ballot to be voted at that election. A voter may obtain an application form for an absent voter's
12 ballot for a general, special, primary, or county election from either the county auditor or a city
13 auditor. The application form, for a member of the United States armed forces or the United
14 States merchant marine or for a qualified elector living outside the United States, must include a
15 space for the applicant to indicate whether the application is for all statewide elections in the
16 calendar year or only for the election that is immediately after the date of the application. An
17 applicant who is a member of the United States armed forces or the United States merchant
18 marine living outside the United States or is a qualified elector living outside the United States
19 may apply for and vote by facsimile if otherwise qualified to apply for and vote by absentee
20 ballot. An auditor, clerk, or business manager may send and receive facsimile absentee ballot
21 applications and facsimile absentee ballots to any individual eligible to apply for and vote by
22 facsimile under this section. No auditor or clerk may issue ballots for absentee voters on the
23 day of the election except to persons prevented from voting in person on the day of the election
24 due to an emergency. A person requesting an absentee ballot on the day of the election due to

1 an emergency must do so through an agent as set forth in this chapter. An agent may
2 represent only one person. The absentee ballot must be returned to the county auditor's office
3 by four p.m. on the day of the election.

4 With the exception of an application from a member of the United States armed forces
5 or the United States merchant marine living outside the United States or a qualified elector
6 living outside the United States whose application may require transmission through an
7 intermediate mail or facsimile delivery system, a completed application for an absent voter's
8 ballot must be made, either by mail, facsimile, or otherwise, directly to the proper election
9 officials identified in this section.

10 **SECTION 2. AMENDMENT.** Section 16.1-07-06 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **16.1-07-06. Application form.**

- 13 1. Application for an absent voter's ballot must be made on a ~~blank~~ form, prescribed
14 by the secretary of state, to be furnished by the proper officer of the county, city, or
15 school district in which the applicant is an elector or on any ~~blank~~ form, approved
16 by the secretary of state, containing the following information:
- 17 a. The applicant's name.
 - 18 b. The applicant's ~~voting~~ residential address.
 - 19 c. The applicant's mailing address.
 - 20 d. The applicant's current home telephone number.
 - 21 e. The election for which the ballot is being requested.
 - 22 f. The date of the request.
 - 23 g. An affirmation that the applicant has resided, or will reside, in the precinct for
24 at least thirty days next preceding the election.
 - 25 h. The applicant's signature.
 - 26 i. A space for the voter to include the voter's precinct or voting location, if
27 known.
 - 28 j. A statement disclosing the person, as defined in section 16.1-08.1-09, or
29 political party, responsible for paying for distribution of the application, unless
30 the application is distributed by an election official identified in section
31 16.1-07-05.

1 If the applicant is unable to sign the applicant's name, the applicant shall mark (X)
2 on the application in the presence of a disinterested person. The disinterested
3 person shall print the name of the person marking the X below the X and shall sign
4 that person's own name following the printed name together with the notation
5 "witness to the mark".

6 2. A qualified elector absent from the state is not required to file an application for an
7 absent voter's ballot for any statewide election if either of the following apply:

8 a. The elector is a member, or spouse or dependent of a member, of the United
9 States armed forces or merchant marine living outside the United States.

10 b. The elector is a United States citizen living outside the United States.

11 If the qualified elector furnishes the county auditor with a current mailing address
12 and the elector's ~~local residence or precinct~~ residential address, the county auditor
13 shall mail to the qualified elector a ballot with a return envelope and instructions for
14 voting for any statewide election in that calendar year.

15 **SECTION 3. AMENDMENT.** Section 16.1-07-07 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **16.1-07-07. Delivering application ~~blank~~ form for ballot.** The officers specified in
18 section 16.1-07-05, upon request, shall mail an application ~~blank~~ form for an absent voter's
19 ballot to the voter, or they may deliver the application ~~blank~~ form to the voter upon a personal
20 application made at the officer's office. The officers may also make available or distribute the
21 applications, prescribed by the secretary of state, to the public without any specific request
22 being made for the applications.

23 **SECTION 4. AMENDMENT.** Section 16.1-07-08 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **16.1-07-08. Delivering ballots - Envelope accompanying - Statement on envelope**
26 **- Challenging electors voting by absentee ballot - Inability of elector to sign name.**

27 1. Upon receipt of an application for an official ballot properly filled out and duly
28 signed, or as soon thereafter as the official ballot for the precinct in which the
29 applicant resides has been prepared, the county auditor, city auditor, or business
30 manager of the school district, as the case may be, shall send to the absent voter
31 by mail, at the expense of the political subdivision conducting the election, one

1 official ballot, or personally deliver the ballot to the applicant or the applicant's
2 agent, which agent may not, at that time, be the applicant's employer, officer, or
3 agent of the applicant's union, or a candidate for any office, or a relative of a
4 candidate for any office as described in subsection 2 of section 16.1-05-02, to be
5 voted upon by the absent voter. The agent shall sign the agent's name before
6 receiving the ballot and deposit with the auditor or business manager of the school
7 district, as the case may be, authorization in writing from the applicant to receive
8 the ballot or according to requirements set forth for signature by mark. The auditor
9 or business manager of the school district, as the case may be, may not provide an
10 absent voter's ballot to a person acting as an agent who cannot provide a signed,
11 written authorization from an applicant. No person may receive compensation,
12 including money, goods, or services, for acting as an agent for an elector, nor may
13 a person act as an agent for more than four electors in any one election. A voter
14 voting by absentee ballot may not require the political subdivision providing the
15 ballot to bear the expense of the return postage for an absentee ballot.

- 16 2. If there is more than one ballot to be voted by an elector of the precinct, one of
17 each kind must be included and an envelope must be enclosed with the ballot or
18 ballots. The front of the envelope must bear the official title and post-office
19 address of the officer supplying the voter with the ballot and upon the other side a
20 printed statement in substantially the following form:

21 Precinct _____

22 Name _____

23 Residential Address _____

24 City _____ ND Zip Code _____

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

30 Applicant's Signature _____

31 Date _____

1 If the absent voter is unable to sign the voter's name, the voter shall mark (X) ~~that~~
2 on the statement in the presence of a disinterested person. The disinterested
3 person shall print the name of the person marking the X below the X and shall sign
4 that person's own name following the printed name together with the notation
5 "witness to the mark".

6 3. The county auditor, city auditor, or business manager of the school district, as the
7 case may be, may challenge the right of anyone to vote an absent voter's ballot
8 whom that officer knows or has reason to believe is not a qualified elector. When
9 challenging a voter who has applied for an absentee voter's ballot, the election
10 official shall follow the procedures and use the affidavit provided for in section
11 16.1-05-06 and include a voter's affidavit with the outgoing absentee voter's ballot
12 along with an explanation that the voter's right to vote is being challenged and that
13 the voter's affidavit must be completed and returned with the voter's absentee
14 voter's ballot to be accepted.

15 4. Each person requesting an absent voter's ballot under this chapter must be
16 provided a set of instructions, prescribed by the secretary of state, sufficient to
17 describe the process of voting by absent voter's ballot. The voting instructions
18 must contain a statement informing the individual that the individual is entitled to
19 complete the absent voter's ballot in secrecy.

20 **SECTION 5.** A new section to chapter 16.1-07 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Early voting precinct - Election board appointment - closing and canvassing.**

- 23 1. For any primary, general, or special statewide, district, or county election, the
24 board of county commissioners may, before the sixtieth day before the day of the
25 election, create a special precinct, known as an early voting precinct, to facilitate
26 the conduct of early voting in that county according to chapters 16.10-13 and
27 16.1-15. The election board of the early voting precinct must be known as the
28 early voting precinct election board. The county auditor shall supply the board with
29 all necessary election supplies as provided in chapter 16.1-06.
- 30 2. If the board of county commissioners establishes an early voting precinct according
31 to this section, the following provisions apply:

- 1 a. Early voting must be authorized during the fifteen days immediately before the
2 day of the election. The county auditor shall designate the business days and
3 times during which the early voting election precinct will be open and publish
4 notice of the dates and times in the official county newspaper once each week
5 for three consecutive weeks immediately before the day of the election.
- 6 b. The county auditor shall appoint the early voting precinct election board that
7 consists of one independent representative to act as the inspector and an
8 equal number of representatives from each political party represented on an
9 election board in the county, as set out in section 16.1-05-01, to act as judges.
10 Each official of the board shall take the oath required by section 16.1-05-02
11 and must be compensated as provided in section 16.1-05-05.
- 12 c. The county auditor shall designate a space, accessible to the elderly and the
13 physically disabled as provided in section 16.1-04-02, to locate the early
14 voting precinct.
- 15 d. At the close of each day of early voting, the inspector, along with a judge from
16 each political party represented on the board shall secure all election related
17 materials, including:
- 18 (1) The pollbooks and access to any electronically maintained pollbooks.
19 (2) Any stamp and inkpad.
20 (3) The ballot boxes containing voted ballots.
21 (4) Any void, spoiled, and unvoted ballots.
- 22 e. Ballot boxes containing ballots cast at an early voting precinct may not be
23 opened until the day of the election.
- 24 f. The early voting precinct may be closed, as provided in chapter 16.1-15, at
25 the end of the last business day designated for early voting in the county.
26 Results from the early voting precinct may be counted, canvassed, or
27 released under chapter 16.1-15 as soon as any precinct within the county,
28 city, or legislative district closes its polls on the day of the election. The
29 county auditor shall designate a location for the closing, counting and
30 canvassing process under chapter 16.1-15, which location must be open to
31 any person for the purpose of observing.

- 1 g. The early voting precinct election board shall comply with the requirements of
2 chapters 16.1-05, 16.1-13, and 16.1-15, as applicable.