

**FIRST ENGROSSMENT
with House Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2405

Introduced by

Senators Dever, Krebsbach

Representatives Devlin, Meier

1 A BILL for an Act to amend and reenact sections 16.1-11-18 and 16.1-13-10 of the North
2 Dakota Century Code, relating to filling vacancies occurring in nominations for party office and
3 filling legislative vacancies.

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

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

7 **16.1-11-18. Party committees to fill vacancy occurring in nomination for party**
8 **office.**

9 1. If a vacancy occurs in any party certificate of endorsement at the primary election
10 for any state or legislative district office, the proper state or district executive
11 committee of the political party may fill the vacancy by filing another certificate of
12 endorsement with the proper officer as provided in sections 16.1-11-06 and
13 16.1-11-11.

14 2. If no party endorsement has been made by certificate and a vacancy occurs in a
15 slate of candidates seeking party nomination by petition at the primary election, the
16 proper state or district executive committee may fill the vacancy by filing a
17 certificate of endorsement with the proper officer as provided in sections
18 16.1-11-06 and 16.1-11-11.

19 3. If party endorsements by certificate have been made for any state or district office
20 and a vacancy occurs in the slate of persons seeking nomination at the primary
21 election because of the unavailability of the person who is seeking nomination by
22 petition, that vacancy may not be filled except by petition.

23 4. If a vacancy occurs in a slate of statewide candidates after the candidates have
24 been nominated at the primary election, the proper state executive committee may

1 fill any vacancy by filing a certificate of nomination with the secretary of state. The
2 chairman and secretary of the committee shall make and file with the secretary of
3 state a certificate setting forth the cause of the vacancy, the name of the person for
4 whom the new nominee is to be substituted, the fact that the committee was
5 authorized to fill vacancies, and any further information as may be required to be
6 given in an original certificate of nomination. When such a certificate is filed, the
7 secretary of state shall certify the new nomination and the name of the person who
8 has been nominated to fill the vacancy in place of the original nominee to the
9 various auditors. If the secretary of state already has forwarded the certificate, the
10 secretary of state forthwith shall certify to the auditors the name and address of the
11 new nominee, the office the new nominee is nominated for, the party or political
12 principle the new nominee represents, and the name of the person for whom the
13 new nominee is substituting. Failure to publish the name of a new nominee does
14 not invalidate the election.

15 5. If a vacancy occurs in a slate of legislative candidates after the candidates have
16 been nominated at the primary election, the proper district executive committee
17 may fill the vacancy by filing a certificate of nomination with the county auditor of
18 the new nominee's county of residence. The chairman and secretary of the
19 committee shall make and file with the county auditor of the new nominee's county
20 of residence a certificate setting forth the cause of the vacancy, the name of the
21 person for whom the new nominee is to be substituted, the fact that the committee
22 was authorized to fill vacancies, and any further information as may be required to
23 be given in an original certificate of nomination. When the certificate is filed, the
24 county auditor of the new nominee's county of residence shall certify the new
25 nomination to the various auditors affected by the change and to the secretary of
26 state by forwarding to them the name of the person who has been nominated to fill
27 the vacancy in place of the original nominee. The certification must include the
28 name and address of the new nominee, the office the new nominee is nominated
29 for, the party or political principle the new nominee represents, and the name of
30 the person for whom the new nominee is substituting. Failure to publish the name
31 of a new nominee does not invalidate the election.

- 1 6. A vacancy in a nomination following a primary election may not be filled according
2 to subsections 4 or 5 unless the nominated candidate:
- 3 a. Dies;
4 b. Would be unable to serve, if elected, as a result of a debilitating illness;
5 c. Ceases to be a resident of the state or an individual nominated for legislative
6 office will not be a resident of the legislative district at the time of the election;
7 or
8 d. Ceases to be qualified to serve, if elected, as otherwise provided by law.

9 Vacancies to be filled according to the provisions of this section may be filled not later than
10 sixty days prior to the election.

11 **SECTION 2. AMENDMENT.** Section 16.1-13-10 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **16.1-13-10. Vacancy existing in office of member of legislative assembly.**

- 14 1. If a vacancy in the office of a member of the legislative assembly occurs, the
15 county auditor of the county in which the former member resides or resided shall
16 notify the chairman of the legislative council of the vacancy. The county auditor
17 need not notify the chairman of the legislative council of the resignation of a
18 member of the legislative assembly when the resignation was made under section
19 44-02-02. Upon receiving notification of a vacancy, the chairman of the legislative
20 council shall notify the district committee of the political party that the former
21 member represented in the district in which the vacancy exists. The district
22 committee shall hold a meeting within twenty-one days after receiving the
23 notification and select an individual to fill the vacancy. If the former member was
24 elected as an independent candidate or if the district committee does not make an
25 appointment within twenty-one days after receiving the notice from the chairman of
26 the legislative council, the chairman of the legislative council shall appoint a
27 resident of the district to fill the vacancy. If Except as provided in subsection 2, if
28 eight hundred twenty-eight days or more remain until the expiration of the term of
29 office for that office, the individual appointed to fill the vacancy shall serve until a
30 successor is elected at and qualified following the next general election or special

1 election called by the governor according to subsection 2 to serve for the
2 remainder of the term of office for that office.

3 2. The qualified electors of a legislative district in which a vacancy in the legislative
4 assembly occurs may petition for a special election to be called by the governor to
5 fill the vacancy. The petition must include the signatures of qualified electors equal
6 in number to four percent of the resident population of the legislative district as
7 determined by the last federal decennial census and must be presented to the
8 secretary of state within thirty days following an appointment being made
9 according to subsection 1. If the secretary of state determines the petition
10 contains the required number of signatures of qualified electors of the affected
11 legislative district, the secretary of state shall notify the governor that a special
12 election is required to be called to fill the vacancy. Upon receiving such notice, the
13 governor shall issue a writ of election directed to the county auditor of each
14 affected county commanding the county auditor to hold a special election to fill the
15 vacancy at a time designated by the governor. A special election under this
16 section must conform to the applicable election deadlines found in this title and
17 may be called to coincide with a regularly scheduled primary or general election
18 provided the special election is called by the fifteenth day before the deadline for
19 candidates to file for office before a regularly scheduled primary or general
20 election. A special election under this section may not be scheduled to occur
21 during the time from a general election through eighty days following the
22 adjournment of the next ensuing regular session of the legislative assembly.

23 3. The secretary of state must be notified of an appointment made by a district
24 committee or the chairman of the legislative council according to this section.
25 Upon notification, the secretary of state shall issue the appointee a certificate of
26 appointment and an oath of office for the appointee to complete and file with the
27 secretary of state.