

HOUSE BILL NO. 1447

Introduced by

Representatives Koppelman, Boehning, Carlson, Owens, Thoreson

1 A BILL for an Act to amend and reenact subsection 4 of section 16.1-02-05 and section
2 16.1-05-06 of the North Dakota Century Code, relating to the canvassing of ballots of voters
3 whose eligibility to vote has been challenged.

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

5 **SECTION 1. AMENDMENT.** Subsection 4 of section 16.1-02-05 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 4. Within forty-five days after an election, the county auditor shall send a notice to each
8 individual who was challenged on election day according to section 16.1-05-06 and
9 who did not deliver verification of eligibility to vote to the county auditor within three
10 days. If a notice is returned as not deliverable, the county auditor shall attempt to
11 determine the reason for the return. A county auditor who does not receive or obtain
12 satisfactory proof of an individual's eligibility to vote shall notify immediately the state's
13 attorney to conduct an investigation of the individual's eligibility to vote in that election.

14 **SECTION 2. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **16.1-05-06. Challenging right to vote - Identification or affidavit required - Penalty for**
17 **false swearing - Optional poll checkers.**

18 1. Three poll challengers appointed by the district chairman of each political party
19 represented on the election board are entitled to be in attendance at each polling
20 place. Individual poll challengers may be replaced at any time during the hours of
21 voting, but no more than three poll challengers from each political party are entitled to
22 be in attendance at each polling place at any one time.
23 2. Any member of the election board may challenge the right of an individual to vote if the
24 election board member has knowledge or has reason to believe the individual is not a

1 qualified elector. A poll challenger may request members of the election board to
2 challenge the right of an individual to vote if the poll challenger has knowledge or has
3 reason to believe the individual is not a qualified elector of the precinct. A challenge
4 may be based upon any one of the following:

- 5 a. The individual offering to vote does not meet the age or citizenship requirements.
- 6 b. The individual offering to vote has never voted in the precinct before, the name of
7 the individual offering to vote does not appear in the pollbook generated from the
8 central voter file, and the individual fails to provide reasonable evidence of
9 residency in the precinct.
- 10 c. Except as provided in section 16.1-01-05, the individual offering to vote physically
11 resides outside of the precinct.
- 12 d. The individual offering to vote does not meet the residency requirements
13 provided in section 16.1-01-04.
- 14 e. The individual offering to vote fails or refuses to provide an appropriate form of
15 identification as requested under subsection 3.

16 3. If after an election board member has requested that the individual offering to vote
17 provide an appropriate form of identification to address any of the voting eligibility
18 concerns listed in subsection 2 and the identification is not provided or does not
19 adequately confirm the eligibility of the challenged individual, the challenged individual
20 may not vote unless the challenged individual executes an affidavit, acknowledged
21 before an election board member, that the challenged individual is a legally qualified
22 elector of the precinct.

23 4. The affidavit must include:

- 24 a. The name of the affiant.
- 25 b. The address of the affiant.
- 26 c. The birth date of the affiant.
- 27 d. The contact telephone number of the affiant.
- 28 e. The address of the affiant at the time the affiant last voted.
- 29 f. The previous last name of the affiant if it was different when the affiant last voted.
- 30 g. The identification number and state of any state-issued identification regardless
31 of the state in which the identification was issued, if available.

- 1 h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and
2 the rules for determining residence.
- 3 i. Notice of the penalty for making a false affidavit and that the county auditor is
4 required to verify the affidavit.
- 5 j. A statement that informs the affiant that the affiant may ensure that the affiant's
6 ballot will be counted if the affiant delivers verification of the affiant's eligibility to
7 vote to the county auditor within three days.
- 8 k. A notice indicating that the affidavit is not an open record, but that information
9 identifying who voted after executing an affidavit is an open record as part of the
10 pollbook, except for any individual listed as secured active in the central voter file
11 under section 16.1-02-13.
- 12 k-l. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
- 13 5. Written notice of the penalty for making a false affidavit and that the county auditor
14 shall verify the affidavits must be prominently displayed at the polling place in a form
15 prescribed by the secretary of state. An individual who falsely swears in order to vote
16 is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.
- 17 6. The election inspector shall place the ballot of an individual who executes an affidavit
18 under this section in a secure envelope designed by the secretary of state to protect
19 the secrecy of the ballot. Each election inspector shall deliver to the county auditor a
20 list of the names of all individuals who executed an affidavit under this section and
21 each ballot cast by those individuals. The county auditor shall forward the ballot of
22 each affiant whose address has been verified as provided under subsection 4 to the
23 county canvassing board for canvassing and forward the remaining ballots to the
24 county canvassing board marked as "rejected as not an elector".
- 25 7. The district chairman of each political party represented on the election board may
26 appoint poll checkers to a polling place, provided the poll checkers do not interfere
27 with the election process or with the members of the election board in the performance
28 of their duties. Poll challengers must be qualified electors of the district in which they
29 are assigned.
- 30 7-8. No poll challenger or checker may be a member of the election board.

Sixty-second
Legislative Assembly

- 1 ~~8-9.~~ The district chairman shall notify the county auditor of each county contained in the
- 2 legislative district one day before the day of the election of the names of individuals
- 3 whom the district chairman has appointed to serve as poll challengers and poll
- 4 checkers in the precincts in the legislative district.