

**HOUSE BILL NO. 1244**

Introduced by

Representatives Kretschmar, Delmore, Hawken, N. Johnson, Maragos

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

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

1 special 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 fill-~~  
5 ~~the vacancy. The petition must include the signatures of qualified electors equal in-~~  
6 ~~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 according to-~~  
9 ~~subsection 1. If the secretary of state determines the petition contains the required-~~  
10 ~~number of signatures of qualified electors of the affected legislative district, the-~~  
11 ~~secretary of state shall notify the governor that a special election is required to be-~~  
12 ~~called to fill the vacancy. Upon receiving such notice, the governor shall issue a writ of-~~  
13 ~~election directed to the county auditor of each affected county commanding the county-~~  
14 ~~auditor to hold a special election to fill the vacancy at a time designated by the-~~  
15 ~~governor.~~ If a vacancy in the office of a member of the legislative assembly occurs  
16 while the legislative assembly is not in regular session, the county auditor of the  
17 county in which the former member resides or resided shall notify the chairman of the  
18 legislative management and the governor of the vacancy. A county auditor need not  
19 notify the chairman of the legislative management and the governor of the resignation  
20 of a member of the legislative assembly when the resignation was made under section  
21 44-02-02. Upon receiving notification of a vacancy, the governor, if there is a regular  
22 session of the legislative assembly between the time the vacancy occurs and the next  
23 general election, shall issue a writ of election directed to the county auditor of each  
24 affected county directing the county auditor to hold a special election to fill the vacancy  
25 at a time designated by the governor. If there is no regular session of the legislative  
26 assembly between the time the vacancy occurs and the next general election and the  
27 term of office for that office does not end before the next regular session of the  
28 legislative assembly, the governor shall direct that a special election be held at the  
29 same time as the general election. If there is no regular session of the legislative  
30 assembly between the time the vacancy occurs and the expiration of the term of office  
31 of the member whose office is vacated, the governor may issue a writ of election to

1           hold a special election to fill the vacancy. An individual elected to fill a vacancy shall  
2           serve for the remainder of the term of office for that office. A special election under this  
3           section must conform to the applicable election deadlines found in this title and ~~may~~  
4           ~~be~~if called to coincide with a regularly scheduled ~~primary or general~~ election ~~provided,~~  
5           the special election ~~is~~must be called by the fifteenth day before the deadline for  
6           candidates to file for office before ~~a regularly scheduled primary or general~~the election.  
7           ~~A special election under this section may not be scheduled to occur during the time~~  
8           ~~from a general election through eighty days following the adjournment of the next~~  
9           ~~ensuing regular session of the legislative assembly.~~

- 10          3. The secretary of state must be notified of an appointment made by a district committee  
11           or the chairman of the legislative management according to this section. Upon  
12           notification, the secretary of state shall issue the appointee a certificate of appointment  
13           and an oath of office for the appointee to complete and file with the secretary of state.

14          **SECTION 2. AMENDMENT.** Subsection 3 of section 44-02-02 of the North Dakota Century  
15          Code is amended and reenacted as follows:

- 16          3. A member of the legislative assembly, to the presiding officer of the branch of which  
17           the individual is a member, when in session, and when not in session, to the chairman  
18           of the legislative management and governor. When made to the presiding officer, the  
19           presiding officer at once shall notify the chairman of the legislative management and  
20           governor of the resignation.