CHAPTER 16.1-13
GENERAL ELECTIONS

16.1-13-01. Date of general election.

The general election must be held in all the election districts of this state on the first Tuesday after the first Monday in November of each even-numbered year.

16.1-13-02. Officers to be elected at general election.

All elective state, district, and county officers, and the United States senators, and the members of the United States house of representatives, must be elected at the general election next preceding the expiration of the term of each such officer. In a year when a president and vice president of the United States are to be chosen, a number of presidential electors equal to the number of senators and representatives to which this state is entitled in the Congress of the United States must be elected at such general election.

16.1-13-03. Secretary of state to give notice to county auditor of officers to be elected.

Repealed by S.L. 2015, ch. 158, § 5.

16.1-13-04. Candidates' names placed on official general election ballot.

The names of all candidates of each political party or principle or no-party designation, who are shown to have been nominated for the several offices in accordance with the certificates of nomination filed in the secretary of state's office, must be placed by the secretary of state on the official ballot to be voted for at the next general election.

16.1-13-05. Notice of election - Contents - Publication with sample ballot.

1. Notice of all general elections must be published by the county auditor in the official county newspaper at the same time as, and as a part of, the publication of the sample ballot preceding the election. The notice must be substantially as follows:

Notice is given that on Tuesday, November _____, ___, at the polling places in the various precincts in the county of _____, an election will be held for the election of state, district, and county officers, which election will be opened at _____ a.m. and will continue open until _____ p.m. of that day with the following exceptions:

_____

_____

Dated _____, _____

Signed _____

County Auditor

2. The county auditor shall publish a copy of the sample ballot of the general election once each week for two consecutive weeks before the election in the official county newspaper. If no newspaper is published in the county, the publication must be in a newspaper published in an adjoining county in the state. The form of the sample ballot as ordered and arranged by the county auditor must conform in all respects to the form prescribed by the secretary of state for the sample general election ballot. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. Candidates from each legislative district within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. Sample ballots used for publication purposes must be arranged in accordance with section 16.1-11-27. The notice must include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

16.1-13-06. Defeated primary candidate ineligible to have name printed on general ballot - Exception.

Except to fill a vacancy occurring on the ballot, an individual who was a candidate for nomination by any party or a candidate for a no-party office at any primary election in any year and who was defeated for the nomination may not have that individual's name printed upon the official ballot at the ensuing general election for the same office.

16.1-13-07. Preparation, printing, distributing, canvassing, and returning of no-party ballot.

The no-party ballot must be prepared, printed, distributed, canvassed, and returned in the same manner provided for other general election ballots.

16.1-13-08. Filling vacancy in office of United States senator.

When a vacancy occurs in the office of United States senator from this state, the governor shall call a special election to be held within ninety-five days to fill the vacancy. If the vacancy occurs within ninety-five days of the expiration of the term of office for that office, no election may be held to fill the vacancy.

16.1-13-08.1. Special election to fill a vacancy in the United States House of Representatives due to a catastrophic circumstance.

If a vacancy occurs in the office of representative in Congress due to a catastrophic circumstance in which one hundred or more representatives across the United States are no longer able to serve and the next regular or special election is more than seventy-five days in the future, the governor shall immediately issue a writ of election calling a special election to fill the vacancy. The date of the election shall be forty-nine days from the date of the proclamation and the following deadlines shall apply:

1. Certificate of endorsement as described in section 16.1-11-09, affidavits of candidacy described in section 16.1-11-10, and statements of interest described in section 16.1-09-03 for those candidates nominated by political parties currently established in the state shall be filed with the secretary of state by four p.m. on the fortieth day before the election.
2. If the election occurs in an election year, the precincts previously established by the county shall be utilized.
3. If the election occurs in a year without a scheduled election, the board of county commissioners must establish the precinct boundaries by the fortieth day before the election.
4. The secretary of state shall certify to the county auditors the names of the candidates for the election on the thirty-ninth day before the election.
5. Absentee ballots shall be made available to qualified electors by the thirtieth day before the election.

16.1-13-08.2. Death or disqualification of legislative candidate.

If a candidate for an office of a member of the legislative assembly who has died or become disqualified for the office receives enough votes to be elected except for the death or disqualification, a vacancy in the office is deemed to exist, and must be filled according to section 44-02-03.1. If an individual elected to the legislative assembly dies or becomes disqualified after the election but before the individual's term of office begins, a vacancy in the office exists and must be filled according to section 44-02-03.1 as if the individual's term of office had begun. An individual is disqualified for an office if the individual fails to meet the qualifications under law for the office.

16.1-13-09. Resignation of members of legislative assembly after certificate of election.

Any individual who receives a certificate of election as a member of the legislative assembly may resign the office even if the individual has not entered upon the execution of the duties of the office or taken the requisite oath of office.

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

Repealed by S.L. 2021, ch. 327, § 5.

16.1-13-11. Vacancy occurring in legislative assembly during session - Duty of governor.

Repealed by S.L. 2001, ch. 209, § 3.

16.1-13-12. Notice of special election.

A notice of a special election and the copy of the sample ballot must be issued and published in substantially the form and manner prescribed by section 16.1-13-05.

16.1-13-13. Canvassing and returning votes cast at elections to fill vacancies.

Votes cast at special elections must be canvassed and returned as provided for primary and general elections, and the county auditor within eight days shall forward to the secretary of state the abstracts of the same.

16.1-13-14. Special election to fill vacancies - Party committee to call convention to nominate - Individual nominations.

If a special election is called to fill a vacancy in any office for which a party nomination may be made, the proper party committee shall call a convention to make a party nomination for the office, and the district must be duly convened and shall elect the required number of delegates to the convention. Individual nominations for special elections must be made in accordance with the provisions of chapter 16.1-12.

16.1-13-15. Notice of holding convention for special election - Manner of giving.

Public notice of such a nominating convention must be given at least six days before the holding of the convention by publication in the official newspaper in the county or counties in which the election will be held. Such nomination must be made by delivering to and leaving with the officer charged with directing the printing of the ballots upon which the name is to be placed, within the time prescribed in this title, a certificate of nomination for each candidate.

16.1-13-16. Basis of representation at convention - How determined.

The basis of representation of delegates to a convention, unless otherwise provided by law, must be fixed and determined by the authorized district or state committee of each political party entitled by law to make nominations for office by delegate convention.

16.1-13-17. Certificate of nomination by convention - Contents - Delivery.

All nominations made by a convention as provided in this chapter must be certified. The certificate must be delivered by the secretary or president of the convention by registered or certified mail or in person, without charge, to the secretary of state. The certificates of nomination must be in writing and must contain all of the following:

1. The name of each individual nominated, individual's post-office address, telephone number, the office for which the individual is nominated, the legislative district number if applicable, and whether the certificate is intended for an unexpired or full term of office.
2. A designation in not more than five words of the party or principle which the convention represents.
3. The signature, post-office address, and verification of the presiding officer and secretary of the convention.

16.1-13-18. Two or more organizations filing certificates representing same party - Secretary of state to determine authorized organization - Review of determination.

If two or more organizations claiming or purporting to represent the same political party file certificates of nomination under the same party designation, or if the certificates indicate the nominations were made by any individual or organization representing the same political party, the secretary of state, within the time prescribed by law for certifying state nominations to the county auditor, shall determine from the best available sources of information which organization filing the certificates is the legally authorized representative of the party. The decision of the secretary of state in determining which organization is the legally authorized representative of the party is subject to review by the district court in a proper action instituted for such purpose.

16.1-13-19. Election not to be held in room where alcoholic beverages sold.

An election may not be held in a room in which alcoholic beverages are being sold while the polls are open or while election board members are completing assigned work.

16.1-13-20. Examination of ballot box before opening of polls - Regulations for ballot box while polls are open.

Before declaring the polls open, the inspector and the election judges shall inspect the ballot box to assure that it is empty. The ballot box must then be locked. While the polls are open, the ballot box must remain locked except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box to make room for additional ballots.

16.1-13-21. Producing, opening, and delivering ballots on election day.

Upon arrival at the poll of all election board members, or at the latest, upon the opening of the poll, the inspector of election shall produce the sealed package of official ballots and publicly open them.

16.1-13-22. Delivering ballot to elector - Initialing.

The inspector or one of the election judges shall deliver ballots to the qualified electors. The inspector or judge delivering the paper ballot shall inform each elector that if the ballot is not initialed by an election official it will be invalidated and to protect the elector's right to vote the elector should verify that the ballot has been initialed. Before delivering any paper ballot to an elector, the inspector or judge shall initial the ballot. Failure to initial a paper ballot in the proper place does not invalidate the ballot, but a complete failure to initial a paper ballot does invalidate the ballot.

16.1-13-23. Preparation of ballot by elector - Depositing - Second-chance voting.

Upon receipt of a ballot within the provided secrecy sleeve, the elector, without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare the elector's ballot by darkening the oval opposite the name of each individual for whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall darken the oval opposite the word or words expressing the elector's wish. After preparing the ballot, the elector shall place the ballot back in the provided secrecy sleeve so the ballot is concealed and so the initials of the inspector or election judge may be seen. The elector then shall deposit the ballot in the optical scanning device and wait to determine if the ballot is deposited into the ballot box or if the optical scanning device has indicated a possibility for a second-chance voting condition. If a second-chance voting condition is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot must be cast as is and may not be returned to the voter even if errors exist causing certain votes not to be counted.

16.1-13-24. Voting on electronic voting system devices.

Repealed by S.L. 2021, ch. 164, § 114.

16.1-13-25. Elector may write name on ballot - Counting.

The provisions of this title do not prevent any elector from writing on the paper ballot or entering by touchscreen or other data entry device, the name of any individual for whom the elector desires to vote, and the vote must be counted according to the provisions for the counting of write-in votes found in section 16.1-15-01.1.

16.1-13-26. Name written or pasted on ballot evidence of vote without marking X.

Repealed by S.L. 2005, ch. 184, § 18.

16.1-13-27. Assistance to elector - Polling place accessibility.

Any elector may receive the assistance of any individual of the elector's choice, other than the elector's employer, officer or agent of the elector's union, a candidate running in that election, or a relative of a candidate as provided in subsection 2 of section 16.1-05-02, in marking the elector's ballot. If the elector requests the assistance of a member of the election board, the elector shall receive the assistance of both election judges in the marking of the elector's ballot. An individual assisting any elector in marking a ballot under this chapter may not give information regarding the ballot. An elector, other than one who requests assistance, may not divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote, nor ask, nor receive the assistance of any individual within the polling place to mark the elector's ballot. Parking facilities at polling places must be accessible to individuals living with physical disabilities and the elderly, and must be clearly marked.

16.1-13-28. Penalty for requesting voter to vote in certain manner.

Any individual chosen to assist a voter who requests the assisted voter to vote for or against any person or any issue is guilty of a class B misdemeanor.

16.1-13-29. Election booths or compartments - Number required - Expense.

The inspector of elections shall provide a sufficient number of voting booths or compartments in the inspector's polling place, which must be designed to enable the elector to mark, or in the case of ballot marking devices, enter by touchscreen or other data entry device, the elector's ballot screened from observation. The number of booths or compartments in precincts may not be less than one for each one hundred fifty electors or fraction of one hundred fifty electors in the precincts served by the polling place. The expense of providing the booths or compartments must be paid in the same manner as other election expenses. At least one certified tabulation device and ballot marking device must be provided in each polling place.

16.1-13-30. One individual to occupy booth - Time limit in booth.

No more than one individual may be permitted to occupy any one voting booth or compartment at one time except when providing lawful assistance. An individual may not remain in or occupy a booth or compartment longer than necessary to prepare the individual's ballot.

16.1-13-31. Removal of ballot from polling place before closing of polls - Prohibited.

An individual may not take or remove any ballot from the polling place before the close of the polls.

16.1-13-32. Securing new ballot upon spoiling of others.

If any elector spoils a ballot before casting the ballot in the ballot box, the elector may obtain others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot. Each paper ballot returned must be canceled immediately and, together with those not distributed to the electors, must be preserved and secured in sealed packages and returned to the county recorder.

16.1-13-33. Electronic voting systems - Election laws apply.

All provisions of law relating to the conduct of elections apply as closely as possible to elections at which electronic voting systems are used.

16.1-13-34. Voters casting ballots after regular poll closings - Provisional ballots.

An individual who votes after the regular poll closing time in an election in which a federal office appears as a result of a federal or state court order or any other order extending the time established for closing the polls under state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot. The ballot must be marked as a provisional ballot and must be separated and held apart from other ballots cast by those not affected by the order. The secretary of state shall approve the form of any provisional ballot and may prescribe any procedures the secretary of state determines to be necessary to facilitate the casting, secrecy, and counting of provisional ballots.

16.1-13-35. Eligibility of new residents to vote for presidential electors.

A citizen of the United States who, immediately before the citizen's relocation to this state, was a citizen of another state and who has been a resident of the precinct for less than thirty days before a presidential election, is entitled to vote for presidential electors at the election, but for no other offices, if:

1. The citizen otherwise possesses the substantive qualifications to vote in this state, except the required residence; and
2. The citizen complies with the provisions of sections 16.1-13-37, 16.1-13-41, and 16.1-13-44.

16.1-13-36. Eligibility of former residents to vote for presidential electors.

A citizen of the United States who was a qualified elector in this state immediately before establishing residence in another state and who has not qualified for voting purposes due to the residency requirement of that state may vote in this state for president and vice president only, by applying for a separate ballot under section 16.1-13-37 at least one day before the election. The requirements and procedure for former residents to vote are governed by sections 16.1-13-37, 16.1-13-40, 16.1-13-41, 16.1-13-42, 16.1-13-43, and 16.1-13-44, and the statements relative to new residents contained in those sections must be changed by the county auditor and inspector of elections to comply with this section for this purpose.

16.1-13-37. Application for presidential elector ballot by new residents.

An individual desiring to qualify to vote for presidential elector is not required to register, but, at least ten days before the election, the individual shall apply in the form of an affidavit executed in duplicate in the presence of the county auditor substantially as follows:

State of North Dakota)
) ss.
County of _____)

I, _____, do solemnly swear that:

1. I am a citizen of the United States.
2. Before becoming a resident of this state, I resided at _____ street, in the (town) (township) (city) of _____, county of _____ in the state of _____.
3. On the day of the next presidential election, I shall be at least eighteen years of age. I have been a resident of this state since _____, ___, now residing at _____ street, in the (town) (township) (city) of _____, county of _____ in the state of North Dakota.
4. I have resided in _____ precinct for less than thirty days. I believe I am entitled under the laws of this state to vote at the presidential election to be held on November _____, ___.
5. I apply for a presidential election ballot. I have not voted and will not vote otherwise than by this ballot at that election.

Signed _____

(Applicant)

_____

(Applicant's telephone number)

Subscribed and sworn to before me this _____ day of _____, ___.

Signed _____

(Title and name of officer
authorized to administer oaths)

16.1-13-38. Mailing duplicate application for presidential elector ballot.

The county auditor immediately shall mail a duplicate of the application for a presidential elector ballot to the appropriate official of the state in which the applicant last resided.

16.1-13-39. Filing and indexing applications for presidential elector ballots from other states.

The county auditor shall file each duplicate application for a presidential elector ballot or other official information received by the county auditor from another state indicating a former resident of this state has applied to vote at a presidential election in another state and shall maintain an alphabetical index of the information for four months after the election.

16.1-13-40. Delivery of presidential elector ballot to applicant.

If the county auditor is satisfied the application is proper and the applicant is qualified to vote at the presidential election, the county auditor shall deliver a ballot for presidential electors to the applicant no sooner than thirty days nor later than one day before the next presidential election.

16.1-13-41. Voting by new residents for presidential electors.

1. The applicant, upon receiving the ballot for presidential electors, immediately shall mark the ballot in the presence of the county auditor but in a manner the official cannot know how the ballot is marked. The applicant subsequently shall fold the ballot in the county auditor's presence to conceal the markings and deposit and seal the ballot in an envelope furnished by the county auditor.
2. The voter shall enclose the envelope containing the ballot in a carrier envelope which must be sealed securely. There must be imprinted on the outside of the carrier envelope a statement substantially as follows:

   CERTIFICATION OF NEW RESIDENT VOTER

   I have qualified as a new resident voter in this state to vote for presidential electors. I have not applied nor do I intend to apply for an absent voter's ballot from the state from which I have relocated. I have not voted and I will not vote otherwise than by this ballot.

   Dated _____

   Witness _____

   County Auditor

   _____

   (Signature of Voter)
3. The voter shall sign the certification upon the carrier envelope and subsequently shall deliver the sealed carrier envelope to the county auditor who shall keep the carrier envelope in the county auditor's office until delivered by the county auditor to the inspector of elections of the county absentee ballot precinct.

16.1-13-42. List of applicants requesting presidential elector ballots open for public inspection.

The county auditor shall keep open for public inspection a list of all individuals who have applied to vote for presidential electors as new residents with their names, addresses, and application dates for two years.

16.1-13-43. Delivery and processing of presidential elector ballots of new residents.

1. The county auditor shall deliver the presidential elector ballots for new residents to the inspector of elections in the manner prescribed by law for absentee ballots. The ballots must be processed in accordance with the law for absentee ballots.
2. The inspector of elections shall record the new resident voter's name with a notation designating the individual as a new resident voting for presidential electors only.

16.1-13-44. Application of other statutes to presidential elector ballots.

Except as provided in sections 16.1-13-35 through 16.1-13-44, the provisions of law relating to absent voters' ballots apply also to the casting and counting of presidential elector ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.