

Fifty-eighth  
Legislative Assembly  
of North Dakota

Introduced by

Judiciary Committee

1 A BILL for an Act to amend and reenact section 16.1-05-06 of the North Dakota Century Code,  
2 relating to challenging the right of a person to vote.

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

4 **SECTION 1. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **16.1-05-06. Challenging right of person to vote - Identification or affidavit**  
7 **required - Penalty for false swearing - Optional poll checkers.**

8 1. One poll challenger appointed by the district chairman of each political party  
9 represented on the election board is entitled to be in attendance at each polling  
10 place. Individual poll challengers may be replaced at any time during the hours of  
11 voting, but no more than one poll challenger from each political party is entitled to  
12 be in attendance at each polling place at any one time.

13 2. Any member of the election board may challenge the right of an individual to vote if  
14 the election board member has knowledge or has reason to believe the individual  
15 is not a qualified elector. A poll challenger may request members of the election  
16 board to challenge the right of an individual to vote if the poll challenger has  
17 knowledge or has reason to believe the individual is not a qualified elector of the  
18 precinct. A challenge may be based upon any one of the following:

19 a. The individual offering to vote does not meet the age or citizenship  
20 requirements.

21 b. The individual offering to vote has never voted in the precinct before, the  
22 name of the individual offering to vote does not appear in the pollbook  
23 generated from the central voter file, and the individual fails to provide  
24 reasonable evidence of residency in the precinct.

- 1           c. Except as provided in section 16.1-01-05, the individual offering to vote  
2           physically resides outside of the precinct.
- 3           d. The individual offering to vote does not meet the residency requirements  
4           provided in section 16.1-01-04.
- 5           e. The individual offering to vote fails or refuses to provide an appropriate form  
6           of identification as requested under subsection 3.
- 7           3. If after an election board member has requested that the individual offering to vote  
8           provide an appropriate form of identification to address any of the voting eligibility  
9           concerns listed in subsection 2 and the identification is not provided or does not  
10          adequately confirm the eligibility of the challenged individual, the challenged  
11          individual may not vote unless the challenged individual executes an affidavit,  
12          acknowledged before the election inspector, that the challenged individual is a  
13          legally qualified elector of the precinct.
- 14          4. The affidavit must include:
- 15           a. The name and present address of the affiant and the address of the affiant at  
16           the time the affiant last voted.
- 17           b. The previous last name of the affiant if it was different when the affiant last  
18           voted.
- 19           c. A recitation of the qualifications for voting as set forth in section 16.1-01-04  
20           and the rules for determining residence.
- 21           d. Notice of the penalty for making a false affidavit and that the county auditor  
22           may verify the affidavit.
- 23           e. A place for the affiant to sign and swear to the affiant's qualifications as a  
24           voter.
- 25          5. Upon the completion of the affidavit and the marking of the ballot by the challenged  
26          person, the poll challenger or election board member shall insert the marked ballot  
27          in an envelope, seal the envelope, and shall write on the envelope the word  
28          "provisional" and a statement of the reason for the challenge. The poll challenger  
29          or election board member shall attach the affidavit to the envelope containing the  
30          provisional ballot. The envelope must be numbered to correspond to the number  
31          of the provisional voter's name in the registration or poll book and the word

1           "provisional" must be written following the voter's name in the poll book. The  
2           county auditor shall open and review the provisional ballots and shall make a  
3           recommendation tot he county canvassing board as the the acceptance or  
4           rejection of each ballot. An otherwise properly completed provisional ballot may  
5           not be rejected because an election official failed to comply with any of the  
6           procedures required by this section. The county auditor shall report all known or  
7           suspected violations to the stat's attorney for investigation and possible  
8           prosecution.

9           6. Written notice of the penalty for making a false affidavit and that the county auditor  
10           may verify the affidavits must also be prominently displayed at the polling place in  
11           a form prescribed by the secretary of state. An individual who falsely swears in  
12           order to vote is guilty of a class A misdemeanor and must be punished pursuant to  
13           chapter 16.1-01.

14           ~~6. In addition to the poll challenger, not more than two poll checkers appointed by the~~  
15           ~~district chairman of each political party represented on the election board may be in~~  
16           ~~attendance at each polling place, provided the poll checkers do not interfere with~~  
17           ~~the election process or with the members of the election board in the performance~~  
18           ~~of their duties. The poll challengers and poll checkers must be qualified electors of~~  
19           ~~the district in which they are assigned.~~

20           7. No poll challenger or checker may be a member of the election board.

21           8. The district chairman shall notify the county auditor of each county contained in the  
22           legislative district before the third day before the day of the election of the names of  
23           individuals whom the district chairman has appointed to serve as poll challengers  
24           and poll checkers in the precincts in the legislative district.