

Sixty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1446

Introduced by

Representatives Nathe, D. Anderson, Berg, Bosch, Longmuir, Nelson, Porter, Swiontek

Senators Bekkedahl, Dever, Roers, Cleary

1 A BILL for an Act to amend and reenact sections 16.1-03-14 and 16.1-03-21, subsection 1 of
2 section 16.1-08.1-02.3, subsection 1 of section 16.1-08.1-02.4, and sections 16.1-09-02,
3 16.1-11-06, 16.1-11-10, 16.1-11-11, 16.1-11-12, 16.1-11-18, 16.1-11-30, and 16.1-11-39,
4 subsection 1 of section 16.1-12-02, and sections 16.1-12-09 and 16.1-13-08.1, of the North
5 Dakota Century Code, relating to placing the name of a candidate on the primary election ballot;
6 and to repeal sections 16.1-11-05.1 and 16.1-11-09 of the North Dakota Century Code, relating
7 to party organization endorsements and certificates of endorsement.

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

9 **SECTION 1. AMENDMENT.** Section 16.1-03-14 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **16.1-03-14. State party convention.**

- 12 1. The party state committee shall set the place and time of the state party convention to
13 be held in each general election year. Subject to party rules and bylaws, the state
14 party convention may:
- 15 a. Nominate the legal number of elector nominees and alternate elector nominees
16 for its party for the offices of presidential electors. The nominees must be
17 qualified electors of this state.
 - 18 b. Elect the required number of delegates and alternates to the national party
19 convention.
 - 20 ~~c. Endorse candidates as provided under subsection 2.~~
- 21 2. ~~The candidate or candidates for endorsement or election must be declared endorsed-~~
22 ~~or elected under the rules of the party, and the chairman and secretary of the~~
23 ~~convention shall issue certificates of endorsement as provided in section 16.1-11-06 or~~
24 ~~certificates of election.~~ The names of the qualified electors nominated for presidential

electors the party wishes to place on the general election ballot must be certified by the chairman and secretary of the convention to the secretary of state by four p.m. on the sixty-fourth day before the general election to be placed upon the general election ballot as provided in section 16.1-06-07.1.

SECTION 2. AMENDMENT. Section 16.1-03-21 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-21. Organizations allowed to nominate statewide and legislative candidates.

A political organization may not ~~endorse candidates or~~ have candidates petition for president, vice president, Congress, statewide office, or legislative office as set forth in chapter 16.1-11, unless the organization:

1. Organized according to all requirements of this chapter;
2. Had printed on the ballot at the last preceding general election the names of a set of presidential electors pledged to the election of the party's candidate for president and vice president, a candidate for governor, a candidate for attorney general, or a candidate for secretary of state and those candidates for presidential electors, governor, attorney general, or secretary of state received at least five percent of the total vote cast for presidential electors, the office of governor, attorney general, or secretary of state within this state at that election and organized according to all requirements of this chapter; or
3. Filed a petition with the secretary of state signed by the number of electors required under section 16.1-11-30 to ~~qualify to endorse candidates or to~~ have candidates petition to be included on the primary election ballot in a consolidated column or on a special election ballot.
4. A candidate for Congress, statewide office, or legislative office endorsed according to a party's bylaws may appear on a primary election ballot only through a nominating petition under section 16.1-11-06.

SECTION 3. AMENDMENT. Subsection 1 of section 16.1-08.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

1. Prior to the thirty-first day before a primary, general, or special election, a candidate or candidate committee formed on behalf of the candidate, a multicandidate political committee, or a political party other than a statewide political party soliciting or

1 accepting contributions shall file a campaign disclosure statement that includes all
2 contributions received from January first through the fortieth day before the election. A
3 candidate whose name is not on the ballot and who is not seeking election through
4 write-in votes, the candidate's candidate committee, and a political party that has not
5 endorsed or nominated any candidate in the election is not required to file a statement
6 under this subsection. The statement may be submitted for filing beginning on the
7 thirty-ninth day before the election. The statement must include:

- 8 a. For each aggregated contribution from a contributor which totals in excess of two
9 hundred dollars received during the reporting period:
- 10 (1) The name and mailing address of the contributor;
11 (2) The total amount of the contribution; and
12 (3) The date the last contributed amount was received;
- 13 b. The total of all aggregated contributions from contributors which total in excess of
14 two hundred dollars during the reporting period;
- 15 c. The total of all contributions received from contributors that contributed two
16 hundred dollars or less each during the reporting period; and
- 17 d. For a statewide candidate, a candidate committee formed on behalf of a
18 statewide candidate, and a statewide multicandidate committee, the balance of
19 the campaign fund on the fortieth day before the election and the balance of the
20 campaign fund on January first.

21 **SECTION 4. AMENDMENT.** Subsection 1 of section 16.1-08.1-02.4 of the North Dakota
22 Century Code is amended and reenacted as follows:

- 23 1. Prior to the thirty-first day before a primary, general, or special election, a statewide
24 political party or a political committee not required to file statements under section
25 16.1-08.1-02.3 which is soliciting or accepting contributions shall file a campaign
26 disclosure statement that includes all contributions received and expenditures made
27 from January first through the fortieth day before the election. A political party that has
28 not endorsed or nominated a candidate in an election is not required to file a
29 statement under this subsection. A statement required to be filed under this subsection
30 may be submitted for filing beginning on the thirty-ninth day before the election. The
31 statement must include:

- a. For each aggregated contribution from a contributor which totals in excess of two hundred dollars received during the reporting period:
 - (1) The name and mailing address of the contributor;
 - (2) The total amount of the contribution; and
 - (3) The date the last contributed amount was received;
- b. The total of all aggregated contributions from contributors which total in excess of two hundred dollars during the reporting period;
- c. The total of all contributions received from contributors that contributed two hundred dollars or less each during the reporting period;
- d. For each recipient of an expenditure from campaign funds in excess of two hundred dollars in the aggregate:
 - (1) The name and mailing address of the recipient;
 - (2) The total amount of the expenditure made to the recipient; and
 - (3) The date the last expended amount was made to the recipient;
- e. The aggregate total of all expenditures from campaign funds in excess of two hundred dollars;
- f. The aggregate total of all expenditures from campaign funds of two hundred dollars or less; and
- g. The balance of the campaign fund on the fortieth day before the election and balance of the campaign fund on January first.

SECTION 5. AMENDMENT. Section 16.1-09-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-09-02. Statement of interests to be filed.

1. Every candidate for elective office shall sign and file the statement of interests as required by this chapter. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal disclosure statement that is required by the federal election commission. Candidates for elective office who are required to file such statements shall do so with the filing officer for that election at the time of filing a certificate of

nomination, ~~a certificate of endorsement~~, a petition of nomination, or a certificate of write-in candidacy, pursuant to chapter 16.1-11, 16.1-12, or 40-21, as is appropriate.

2. An individual who has filed a statement as the result of candidacy in a primary election need not refile before running in the following general election. A write-in candidate who is not required to file a certificate of write-in candidacy shall file the statement of interests after the candidate's election at the time of filing the required oath of office. Every individual who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment.

3. A filing officer may not include a candidate's name on the ballot if an error is discovered on the statement and the candidate is unable to or refuses to make the necessary correction before the sixty-fourth day before the election.

SECTION 6. AMENDMENT. Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-06. State candidate's nominating petition or ~~political party certificate of endorsement~~ required to get name on ballot - Contents - Filing.

1. Every candidate for United States senator, United States representative, a ~~state~~statewide office, including the office of state senator or state representative, and judges of the supreme and district courts shall present a nominating petition to the secretary of state; between the first date ~~candidates~~a candidate may begin circulating a nominating petition ~~according to petition under this chapter~~ and before four p.m. of the sixty-fourth day before any primary election; ~~either:~~

a. ~~The certificate of endorsement signed by the state or district chairman of any legally recognized political party containing the candidate's name, post-office address, nongovernment issued electronic mail address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or~~

~~b.2.~~ 2. The nominating petition ~~containing the following~~must include:

(1)a. The candidate's name, post-office address, nongovernment issued electronic mail address, and telephone number, and the title of the office to which the

1 candidate aspires, the appropriate district judgeship number if applicable, and
2 whether the petition is intended for nomination for an unexpired term of office if
3 applicable.

4 ~~(2)~~b. The name of the party the candidate represents if the petition is for an office
5 under party designation.

6 ~~(3)~~c. The signatures and printed names of qualified electors, the number of which
7 must be determined as follows:

8 ~~(a)~~ (1) If the office is a statewide office under a party or no-party designation, the
9 ~~signatures of three percent of the total vote cast for the candidates of the~~
10 ~~party with which the candidate affiliates for the same position at the last~~
11 ~~general election. However, no more than three hundred~~candidate must
12 collect at least two thousand signatures may be required.

13 ~~(b)~~ (2) If there was no candidate of a party for a position at the preceding general
14 election, at least three hundred signatures.

15 ~~(c)~~ (3) If the office is under the no-party designation but is not a statewide office, at
16 least three hundred signatures.

17 ~~(d)~~ (4) If the office is a legislative office, the signatures of at least one percent of
18 the total resident population of the legislative district as determined by the
19 most recent federal decennial census.

20 ~~(4)~~d. The mailing address and the date of signing for each signer.

21 ~~2.3.~~ If the nominating petition ~~or certificate of endorsement~~ is for the office of governor and
22 lieutenant governor, the nominating petition ~~or certificate~~ must contain the names and
23 other information required of candidates for both offices.

24 ~~3.4.~~ A nominating petition ~~or certificate of endorsement~~ may be filed electronically, through
25 the mail, or by personal delivery. However, the nominating petition ~~or certificate~~ must
26 be complete and in the possession of the secretary of state before four p.m. of the
27 sixty-fourth day before the primary election.

28 **SECTION 7. AMENDMENT.** Section 16.1-11-10 of the North Dakota Century Code is
29 amended and reenacted as follows:

16.1-11-10. Applicant's name placed upon ballot - Affidavit to accompany petition.

1. Upon receipt by the secretary of state of the petition ~~or certificate of endorsement~~ provided for in section 16.1-11-06 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the primary election ballot in the columns of the applicant's party as provided or within the no-party office for which the applicant desires nomination.

2. Upon receipt by the county auditor of the petition provided for in section 16.1-11-11 accompanied by the following affidavit, the county auditor shall place the applicant's name upon the primary election ballot within the no-party office for which the applicant desires nomination. The affidavit may be filed electronically, through the mail, or by personal delivery. However, the affidavit must be in the possession of the appropriate filing officer before four p.m. on the sixty-fourth day before the primary election. If the affidavit is filed electronically, the candidate shall retain the original copy.

3. The affidavit must be substantially as follows:

State of North Dakota)

) ss.

County of _____)

I, _____, being sworn, say that I reside at _____, in the city of _____, in the county of _____ of North Dakota; and zip code of _____; that I am a candidate for nomination to the office of _____ to be chosen at the primary election to be held on _____, _____, and I request that my name be printed upon the primary election ballot as provided by law, as a candidate of the _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

Ballot name requested

Candidate's signature

Subscribed and sworn to before me on _____, _____.

Notary Public

NOTARY SEAL

My Commission Expires _____

SECTION 8. AMENDMENT. Section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-11. County candidates' petitions - Filing - Contents.

Every candidate for a county office shall present a petition to the county auditor of the county in which the candidate resides between the first date candidates may begin circulating nominating petitions according to this chapter and four p.m. of the sixty-fourth day before any primary election. The petition ~~or certificate of endorsement~~ may be filed electronically, through the mail, or by personal delivery. However, the petition ~~or certificate of endorsement~~ must be complete and in the possession of the county auditor before four p.m. on the sixty-fourth day before the primary election. A petition under this section must include the following:

1. The candidate's name, post-office address, nongovernment issued electronic mail address, and telephone number, the title of the office to which the candidate aspires, the appropriate district number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
2. The printed names and signatures of qualified electors, the number of which must be determined as follows:
 - a. If the office is a county office, the signatures of not less than two percent of the total vote cast for the office at the most recent general election at which the office was voted upon.
 - b. If the office is a county office and multiple candidates were elected to the office at the preceding general election at which the office was voted upon, the signatures of not less than two percent of the votes cast for all candidates divided by the number of candidates that were to be elected to that office.
 - c. If the office is a county office and no candidate was elected or no votes were cast for the office at any general election, the number of signers equal to at least two percent of the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in

1 the petitioner's county. This average must be determined by dividing by two the
2 total vote cast for those offices.

3 d. In no case may more than three hundred signatures be required.

4 3. The residential address, mailing address (if different from residential address), and
5 date of signing for each signer. A post office box does not qualify as a residential
6 address. In areas of the state where street addresses are not available, a description
7 of where the residential address is located must be used.

8 **SECTION 9. AMENDMENT.** Section 16.1-11-12 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-11-12. Applicant's name placed on ballot.**

- 11 1. Upon receipt of the petition ~~or certificate of endorsement~~ provided for in section
12 16.1-11-06, accompanied by an affidavit as provided in section 16.1-11-10, the
13 secretary of state shall place the name of the applicant on the primary election ballot in
14 the party or appropriate section if the documentation meets all applicable
15 requirements.
- 16 2. Upon receipt of the petition ~~or certificate of endorsement~~ provided for in section
17 16.1-11-11, accompanied by an affidavit as provided in section 16.1-11-10, the county
18 auditor shall place the name of the applicant on the appropriate section of the no-party
19 primary election ballot if the documentation meets all applicable requirements.
- 20 3. A candidate whose name was placed on the ballot under this section may have the
21 candidate's name removed from the ballot by submitting a written request to the
22 appropriate filing officer within forty-eight hours after the filing deadline under sections
23 16.1-11-06 and 16.1-11-11.

24 **SECTION 10. AMENDMENT.** Section 16.1-11-18 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **16.1-11-18. Filling vacancy occurring in endorsement or nomination by petition for**
27 **party office.**

- 28 ~~1. If a vacancy occurs in any party certificate of endorsement at the primary election for~~
29 ~~any state or legislative district office, the proper state or district executive committee of the~~
30 ~~political party may fill the vacancy by filing another certificate of endorsement with the secretary~~
31 ~~of state as provided in section 16.1-11-06.~~

2. ~~If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the secretary of state~~ may be filled by petition as provided in section 16.1-11-06.

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

4. ~~Vacancies to be filled according to the provisions of this section may be filled not later than the sixty-fourth day before the election.~~

SECTION 11. AMENDMENT. Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-30. Separate section on primary election ballot required for each political party.

1. Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate section on primary election ballots.

2. Any other political organization is entitled to ~~endorse candidates or have candidates~~ petition to be included on the primary ballot in a separate section of the consolidated primary election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixty-fourth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a separate section. Political organizations that

are granted ballot access under this section are allowed ballot access only for those offices for which the organization has identified candidates. Regardless of the means by which the petition is delivered, the original must be in the possession of the secretary of state before four p.m. on the sixty-fourth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

3. A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election, and any political organization that has printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election are entitled to organize according to the requirements of chapter 16.1-03.

SECTION 12. AMENDMENT. Section 16.1-11-39 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-39. Individuals nominated in accordance with provisions of chapter eligible as candidates in general election.

1. All individuals nominated in accordance with this chapter are eligible as candidates to be voted for at the ensuing general election, except as provided in this section.
2. Upon receipt of the documents filed by each candidate, the filing officer immediately shall complete a thorough review of the documents and notify the candidate of any necessary corrections that must be made before four p.m. on the sixty-fourth day before the primary election. The filing officer may not place a candidate's name on the primary election ballot if the filed documents are insufficient and remain uncorrected.
3. If the filing officer discovers, after four p.m. on the sixty-fourth day before the primary election, an insufficiency in the ~~certificate of endorsement or~~ petition or affidavit of candidacy filed by a candidate, the candidate may not be deemed nominated until the

insufficiency is corrected. Upon discovery of the insufficiency, the filing officer immediately shall notify the candidate in writing of the necessary corrections. The candidate shall file the necessary corrections as soon as practicable, but not later than four p.m. on the sixty-fourth day before the general election.

SECTION 13. AMENDMENT. Subsection 1 of section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than ~~one thousandtwo~~ thousand signatures.

SECTION 14. AMENDMENT. Section 16.1-12-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-09. Filling vacancy existing on no-party ballot - Petition required - Time of filing.

1. Whenever a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the sixty-fourth day, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. The petition for the nomination of any individual to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for the office of governor in the state or district, at the most recent general election at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.
2. Whenever a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor before four p.m. of the sixty-fourth day a written petition as provided in section 16.1-11-11, stating the petitioner desires to become a candidate for election to the office for which a vacancy exists. The petition for the nomination of any individual to fill the vacancy must be signed by qualified electors equal in number to at least thirty percent of the total vote cast for the office of governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

- 1 3. A vacancy in the no-party ballot must be deemed to exist when:
- 2 a. A candidate nominated at the primary election dies, resigns, or otherwise
- 3 becomes disqualified to have the candidate's name printed on the ballot at the
- 4 general election.
- 5 b. No candidates were nominated at the primary election because the office did not
- 6 yet exist.
- 7 c. The timing of the vacancy in an office makes it impossible to have the office
- 8 placed on the ballot.
- 9 4. The petition ~~or certificate of endorsement~~ may be filed electronically, through the mail,
- 10 or by personal delivery, and must be complete and in the possession of the filing
- 11 officer before four p.m. on the sixty-fourth day before the general or special election.

12 **SECTION 15. AMENDMENT.** Section 16.1-13-08.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-13-08.1. Special election to fill a vacancy in the United States House of**
15 **Representatives due to a catastrophic circumstance.**

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

- 22 1. Certificate of endorsement as described in ~~section 16.1-11-09~~subsection 6, affidavits
- 23 of candidacy described in section 16.1-11-10, and statements of interest described in
- 24 section 16.1-09-03 for those candidates nominated by political parties currently
- 25 established in the state shall be filed with the secretary of state by four p.m. on the
- 26 fortieth day before the election.
- 27 2. If the election occurs in an election year, the precincts previously established by the
- 28 county shall be utilized.
- 29 3. If the election occurs in a year without a scheduled election, the board of county
- 30 commissioners must establish the precinct boundaries by the fortieth day before the
- 31 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.

6. A certificate of endorsement filed with the secretary of state as provided in this section must be in substantially the following form:

CERTIFICATE OF ENDORSEMENT

I, _____, do certify that I am the state (district) chairman of the _____ political party of the _____ legislative district (if appropriate) of the state of North Dakota and that _____ (insert name of endorsee), residing at _____, whose nongovernment-issued electronic mail address is _____, was duly endorsed for nomination to the office of _____ on the _____ day of _____, by the _____ political party of the _____ legislative district (if appropriate), duly convened and organized in accordance with the bylaws of the _____ political party and the laws of this state, and do hereby request _____ name be printed upon the ballot as a candidate for nomination to the office of _____ at the forthcoming primary election to be held on _____ of this year.

Dated this _____ day of _____.

(signature of state or district chairman)

SECTION 16. REPEAL. Sections 16.1-11-05.1 and 16.1-11-09 of the North Dakota Century Code are repealed.