

Sixty-ninth
Legislative Assembly
of North Dakota

**FIRST ENGROSSMENT
with Senate Amendments**

ENGROSSED HOUSE BILL NO. 1165

Introduced by

Representatives Louser, Rohr, D. Ruby, Satrom, Schauer, Vetter, Lefor

Senators Boehm, Castaneda, Paulson, Roers, Hogue

1 A BILL for an Act to amend and reenact section 4.1-20-16, subsection 1 of section 4.1-20-18,
2 section 16.1-01-00.1, subsection 1 of section 16.1-01-09, section 16.1-01-15.1, subsection 3 of
3 section 16.1-05-01, section 16.1-06-02, subdivision g of subsection 1 of section 16.1-06-04,
4 section 16.1-07-07, subsection 4 of section 16.1-07-08, section 16.1-07-09, subsection 3 of
5 section 16.1-07-21, section 16.1-07-24, subsection 2 of section 16.1-07-26, sections 16.1-11-27
6 and 16.1-11.1-04, subsection 1 of section 16.1-11.1-07, subsection 3 of section 16.1-12-02.2,
7 and subsection 2 of section 16.1-13-05 of the North Dakota Century Code, relating to absentee
8 ballots, election practices and administration; and to repeal sections 16.1-07-30 and 40-21-10 of
9 the North Dakota Century Code, relating to election notices and municipal voter registration.

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

11 **SECTION 1. AMENDMENT.** Section 4.1-20-16 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **4.1-20-16. Nominating petitions - Petitions required - Final filing date.**

14 1. Any individual running for the office of supervisor shall present to the county auditor of
15 the county in which the district lies a petition giving that individual's name and mailing
16 address and the title and term of the office, and containing the signatures of not less
17 than twenty-five nor more than three hundred qualified electors of the district. When a
18 district lies in more than one county, the petition must be filed with the county auditor
19 of the county where the candidate resides, and that county auditor shall certify to the
20 county auditors of the other counties in which the district lies the name and mailing
21 address of the candidate filing such petition. ~~At the same time, the county auditor, or~~
22 ~~auditors in the case of multicounty districts, also shall certify to the secretary of state~~

1 ~~the name and mailing address of each individual filing a nominating petition according-~~
2 ~~to this section.~~

3 2. An individual may not participate directly or indirectly in the nomination for more than
4 one individual for each office to be filled. The final filing date for nominating petitions is
5 no later than four p.m. sixty-four days before the day of the election.

6 3. Upon receipt of the petition or the certification as provided in this section, the county
7 auditor shall place, without fee, the name of the candidate so nominated on the
8 no-party ballot at the ensuing general election.

9 **SECTION 2. AMENDMENT.** Subsection 1 of section 4.1-20-18 of the North Dakota Century
10 Code is amended and reenacted as follows:

11 1. At each general election, one district supervisor must be elected for a term of six
12 years, or until the successor is duly elected and qualified, to each expiring or vacant
13 term. The county auditor of the county or counties in which the district lies shall ~~return-~~
14 ~~to the secretary of state before four p.m. on the tenth day following any general-~~
15 ~~election a certified abstract of the votes cast in the county at the election for each-~~
16 ~~candidate for district supervisor. The secretary of state shall canvass the returns and~~
17 issue certificates of election under chapter 16.1-15. When a district lies in more than
18 one county, the county auditor of the county in which the candidate resides shall issue
19 the certificate of election.

20 **SECTION 3. AMENDMENT.** Section 16.1-01-00.1 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **16.1-01-00.1. Definitions.**

23 ~~For purposes of~~ As used in this title, unless the context otherwise requires, ~~"candidate"~~
24 means:

- 25 1. "Candidate" means:
- 26 a. An individual holding public office;
- 27 2. b. An individual who publicly has declared that individual's candidacy for nomination
28 for election or election to public office or has filed or accepted a nomination for
29 public office;
- 30 3. c. An individual who has formed a campaign or other committee for that individual's
31 candidacy for public office;

1 the collection of signatures. Petition packets and affidavits not received within
2 fifteen business days are considered withdrawn.

3 **SECTION 5. AMENDMENT.** Section 16.1-01-15.1 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-01-15.1. Use of nonpublic funds prohibited - Penalty.**

6 1. The state and political subdivisions may not solicit, accept, or use any grants or
7 donations from private persons for elections operations or administration except:

8 a. The use of privately owned facilities for polling places;

9 b. Food for poll workers; and

10 c. Other nonmonetary donations that are not used to prepare, process, mark,
11 collect, or tabulate ballots or votes.

12 2. The state or any political subdivision of this state may not use a private entity to
13 administer an election.

14 3. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor.

15 **SECTION 6. AMENDMENT.** Subsection 3 of section 16.1-05-01 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 3. If at any time before or during an election, it appears to an ~~election inspector, by the~~
18 ~~affidavit of two or more qualified electors of the precinct, or precincts for a~~
19 ~~multiprecinct polling place, a county auditor~~ that any election judge is disqualified under
20 this chapter, the auditor shall order the election inspector ~~shall~~to remove that judge at
21 once and ~~shall~~ fill the vacancy by appointing a qualified individual of the same political
22 party as that of the judge removed. If the disqualified judge had taken the oath of office
23 as prescribed in this chapter, the inspector shall place the oath or affidavit before the
24 state's attorney of the county.

25 **SECTION 7. AMENDMENT.** Section 16.1-06-02 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **16.1-06-02. Ballots prepared by county auditor or local official - Penalty.**

28 For a local election, the ballots must be printed and distributed under the direction of the
29 auditor or clerk of the local subdivision. For all other elections, the secretary of state shall
30 prescribe a ballotsprinting vendor. Ballots must be printed and distributed under the direction of
31 the county auditor, subject to the supervision and approval of the secretary of state as to the

1 legal sufficiency of the form, style, wording, and contents of the ballots. If an auditor or clerk of a
2 local subdivision, a county auditor, or the secretary of state causes or approves the printing of a
3 ballot listing an individual as a candidate when the official knows or should know the individual
4 does not meet the qualifications, or has not satisfied the requirements to be a candidate, the
5 official is guilty of an infraction.

6 **SECTION 8. AMENDMENT.** Subdivision g of subsection 1 of section 16.1-06-04 of the
7 North Dakota Century Code is amended and reenacted as follows:

8 g. Provide text boxes at the bottom of the first side of the ballot. The text box at the
9 bottom of the first column is to contain the words "Official Ballot, the name of the
10 county, the name or number of the precinct, and the date of the election". The
11 text box is to contain the words "All ballots, other than those used to vote
12 absentee, must first be initialed by appropriate election officials in order to be
13 counted". The text box at the bottom of the third column is to contain the word
14 "~~initials~~" phrase "election official initials" preceded by a blank line where the judge
15 or inspector shall initial the ballot.

16 **SECTION 9. AMENDMENT.** Section 16.1-07-07 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **16.1-07-07. Delivering application form for ballot.**

19 The officers specified in section 16.1-07-05, upon request, shall provide an application form
20 for an absent voter's ballot to the voter or may deliver the application form to the voter upon a
21 personal application made at the officer's office. The officers ~~may~~ also may make available or
22 distribute the applications, prescribed by the secretary of state, to the public without any specific
23 request being made for the applications. For every primary, general, special statewide, district,
24 or county election, the county auditor shall mail the applications in an envelope prescribed by
25 the secretary of state.

26 **SECTION 10. AMENDMENT.** Subsection 4 of section 16.1-07-08 of the North Dakota
27 Century Code is amended and reenacted as follows:

28 4. For every primary, general, special statewide, district, or county election, the county
29 auditor shall use the outgoing, return, and secrecy envelopes prescribed by the
30 secretary of state. If there is more than one ballot to be voted by an elector of the
31 precinct and the voting system will be unable to tabulate one or more of the ballots,

1 one of each kind must be included and a secrecy envelope and a return envelope
2 must be enclosed with the ballot or ballots. The front of the return envelope must bear
3 the official title and post-office address of the officer supplying the voter with the ballot
4 and upon the other side a printed voter's affidavit in substantially the following form:

5 Precinct _____

6 Name _____

7 Residential Address _____

8 City _____ ND Zip Code _____

9 Under penalty of possible criminal prosecution for making a false
10 statement, I swear that I reside at the residential address provided
11 above, that I have resided in my precinct for at least thirty days
12 next preceding the election, and this is the only ballot I will cast
13 in this election.

14 Applicant's Signature _____

15 Date _____

16 The signature on this affidavit will be compared to the signature on the
17 affidavit included in the application for the absentee ballot.

18 **SECTION 11. AMENDMENT.** Section 16.1-07-09 of the North Dakota Century Code is amended and
19 reenacted as follows:

20 **16.1-07-09. Canvassing of mailed absent voter's ballot received late.**

21 1. In congressional, state, county, city, or school district elections, if an envelope
22 ~~postmarked or otherwise officially marked by the United States postal service or other~~
23 ~~mail delivery system before the date of election and containing an absent voter's ballot~~
24 ~~must be received by the officer before the close of polls on election day. An absent~~
25 ~~voter's ballot is received by the officer after election day, the ballot must be tallied~~
26 ~~by~~after the close of polls on election day must be forwarded to the canvassing board
27 of the county, the governing body of the city, or the school board of the school district,
28 as the case may be, at the time the returns are canvassed. Any envelope without a
29 ~~postmark or other official marking by the United States postal service or other mail~~
30 ~~delivery system or with an illegible postmark or other official marking and containing~~

1 an absentee voter's ballot must be received by mail by the proper officer prior to the
2 meeting of the

3 2. Before forwarding a ballot to the canvassing board under this section, the officer
4 forwarding the ballot shall print the date and time of receipt on the envelope. An
5 absent voter may personally deliver the absent voter's ballot to the appropriate
6 officer's office at any time before ~~five p.m.~~ the close of polls on the day before the
7 election day. Any envelope containing an absent voter's ballot ~~with a postmark or~~
8 ~~official date stamp on~~ received after the day of close of polls on election or
9 ~~thereafter~~ day may not be tallied with the ballots timely submitted for the election.

10 ~~Before forwarding any ballot to a canvassing board pursuant to this section, the officer~~
11 ~~forwarding the ballot shall print the date of receipt on the envelope.~~ Upon receipt, the
12 canvassing board shall determine that the elector was qualified to vote in that precinct,
13 that the elector did not previously vote in that precinct on the date of the election, and
14 that the signatures on the absentee ballot application and the voter's affidavit were
15 signed by the same individual before allowing the ballot to be tallied.

16 **SECTION 12. AMENDMENT.** Subsection 3 of section 16.1-07-21 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 3. A covered voter may use the declaration accompanying the federal write-in absentee
19 ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act
20 [42 U.S.C. 1973ff-2] as an application for a military-overseas ballot simultaneously
21 with the submission of the federal write-in absentee ballot, if the declaration is
22 received by the appropriate election official by ~~midnight on the day before the~~ close of
23 polls on election day.

24 **SECTION 13. AMENDMENT.** Section 16.1-07-24 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **16.1-07-24. Timely casting of ballot.**

27 To be valid, a military-overseas ballot must be submitted for mailing or other authorized
28 means of delivery not later than ~~11:59 p.m. on the day before the~~ close of polls on election day
29 at the place where the voter completes the ballot. A military-overseas ballot must be received by
30 the appropriate election official before the canvassing board meeting.

1 **SECTION 14. AMENDMENT.** Subsection 2 of section 16.1-07-26 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 2. If, at the time of completing a military-overseas ballot and balloting materials, the voter
4 has affirmed under penalty of perjury under section 16.1-07-27 that the ballot was
5 timely submitted, the ballot may not be rejected on the basis that it ~~has a late-~~
6 ~~postmark, an unreadable postmark, or no postmark~~was received by the officer after
7 the close of polls on election day.

8 **SECTION 15. AMENDMENT.** Section 16.1-11-27 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-11-27. Arrangement of names on ballots.**

11 Sample ballots used for publication purposes must be arranged using the rotation of the
12 ballot in the precinct in ~~the county which cast the highest total vote for governor at the last~~
13 ~~general election at which the office of governor was filled. In the event that this determination is~~
14 ~~no longer possible due to changes in precinct boundaries, the precincts are to be~~and
15 ordered according to the precincts with the greatest voting age eligible voter population to the least. ~~This~~
16 ~~information is to be provided by the North Dakota state data center or based on the best~~
17 ~~available data as determined by the county auditor.~~ On the official ballot used at the election,
18 including electronic voting system ballots, the names of candidates beside or under headings
19 designating each office to be voted for must be alternated in the following manner:

- 20 1. The ballot must first be arranged with all the names for each office on the ballot in an
21 order determined by lot by the county auditor and prepared by the county auditor for
22 all state, district, and county offices. The position of names that require alternating
23 under the provisions of this section must be alternated by an algorithm approved by
24 the secretary of state designed to ensure to the extent possible that each name on the
25 ballot for an office is listed in each position order on an equal number of precinct
26 ballots spread across the county. There must be a different alternation sequence for
27 each of the following, based on the geographical area by which the office is filled:
- 28 a. Offices to be filled by the electors of the state, the entire county, or any district
29 which includes the entire county.
 - 30 b. Offices to be filled by the electors of districts smaller than the county, with a
31 different rotation for each of those districts.

1 2. Although the names are to be alternated within the offices on the ballot, the name
2 order for an office is to be the same for all ballots within a precinct.

3 **SECTION 16. AMENDMENT.** Section 16.1-11.1-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-11.1-04. Voting by electors.**

6 Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope,
7 and comply with the instructions provided with the ballot. The elector may return the completed
8 ballot to the county auditor by mail or, ~~before five p.m. on the day before~~ by the close of polls on
9 election day, to any other place of deposit designated by the auditor. The elector may not deliver
10 the completed ballot to an election board at a polling location. If the elector returns the ballot by
11 mail, the elector shall provide the postage, and the ballot must be ~~postmarked no later than the~~
12 ~~day before~~ received by the officer by the close of polls on election day.

13 **SECTION 17. AMENDMENT.** Subsection 1 of section 16.1-11.1-07 of the North Dakota
14 Century Code is amended and reenacted as follows:

15 1. The ballot is returned in the return identification envelope ~~with a postmark or official~~
16 ~~date stamp of at least the day before~~ by the close of polls on election and received
17 ~~prior to the meeting of the canvassing board~~ day;

18 **SECTION 18. AMENDMENT.** Subsection 3 of section 16.1-12-02.2 of the North Dakota
19 Century Code is amended and reenacted as follows:

20 3. An individual who intends to be a write-in candidate for any legislative district office
21 shall file a certificate of write-in candidacy with the secretary of state. The certificate
22 must contain the name, address, and signature of the candidate. Certificates must be
23 filed by four p.m. on the ~~fourth~~ twenty-first day before the election.

24 **SECTION 19. AMENDMENT.** Subsection 2 of section 16.1-13-05 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 2. The county auditor shall publish a copy of the sample ballot of the general election
27 once each week for two consecutive weeks before the election in the official county
28 newspaper. If no newspaper is published in the county, the publication must be in a
29 newspaper published in an adjoining county in the state. The form of the sample ballot
30 as ordered and arranged by the county auditor must conform in all respects to the
31 form prescribed by the secretary of state for the sample general election ballot. The

1 county auditor shall publish the sample ballot in all forms appropriate for the method or
2 methods of voting in the county. Candidates from each legislative district within the
3 boundaries of the county must be listed in a separate box or category within the
4 sample ballot by legislative district number to enable the voters in each legislative
5 district to ascertain the legislative candidates in their specific district. Sample ballots
6 used for publication purposes must be arranged ~~using the rotation of the ballot in the~~
7 ~~precinct in the county that cast the highest total vote for governor at the last general~~
8 ~~election at which the office of governor was filled~~ in accordance with section
9 16.1-11-27. The notice must include a statement in substantially the following format:
10 The arrangement of candidate names appearing on ballots in your precinct may vary
11 from the published sample ballots, depending upon the precinct and legislative district
12 in which you reside.

13 **SECTION 20. REPEAL.** Sections 16.1-07-30 and 40-21-10 of the North Dakota Century
14 Code are repealed.