

SENATE BILL NO. 2322

Introduced by

Senators C. Nelson, Andrist, Kelsh, Mutzenberger

Representatives Cleary, Gulleson

1 A BILL for an Act to amend and reenact sections 16.1-11-02, 16.1-11-03, 16.1-11-04,
2 16.1-11-07, 16.1-11-23, 16.1-11-34, subsection 2 of section 16.1-12-02.2, and subsection 2 of
3 section 28-32-01 of the North Dakota Century Code, relating to the conduct of the presidential
4 preference primary election; and to repeal section 16.1-11-02.1 of the North Dakota Century
5 Code, relating to the conduct of the presidential preference contest.

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

7 **SECTION 1. AMENDMENT.** Section 16.1-11-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **16.1-11-02. Presidential preference ~~contest~~ primary - Time for holding.** In a
10 presidential election year, there must be conducted a presidential preference ~~contest on the last~~
11 ~~Tuesday in February of that year~~ concurrently with the statewide primary election. The
12 ~~presidential preference contest may be used only to instruct delegates to a national political~~
13 ~~convention and may not further the electoral process for any other purpose. No other election~~
14 ~~or vote on a measure of any kind may be held in conjunction with the presidential preference~~
15 ~~contest.~~

16 **SECTION 2. AMENDMENT.** Section 16.1-11-03 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **16.1-11-03. Political parties authorized to conduct presidential preference ~~contest~~**
19 **election.** Every political party entitled to a separate column ~~under section 16.1-11-30~~ on the
20 primary election ballot is entitled to conduct a presidential preference ~~contest~~ primary as part of
21 its primary election. A political party ~~subject to section 16.1-11-30~~ shall meet the requirements
22 ~~of section 16.1-11-30~~ by filing the petition with the secretary of state before four p.m. of the
23 ~~sixtieth day before the presidential preference contest.~~

1 **SECTION 3. AMENDMENT.** Section 16.1-11-04 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-11-04. Presidential preference ~~contest~~ primary and additional election.** The
4 presidential preference primary must be in addition to all other elections held on the date of the
5 primary. Unless specifically forbidden by national party rules, the delegates selected by political
6 parties ~~at a presidential preference contest~~ are bound to cast their first ballots at the party
7 national convention in such a manner that each candidate at the party's presidential preference
8 ~~contest~~ primary receives a proportion of the total votes cast by the delegates equal to the
9 proportion received by that candidate of the total votes cast for all candidates for president of
10 that party at the ~~contest~~ primary. In computing the number of delegates a candidate may be
11 entitled to on the first ballot, if party rules do not allow apportionment of a delegate and such an
12 apportionment appears necessary because no candidate received more than five-tenths of a
13 delegate, then that delegate must be assigned to the candidate receiving the highest number of
14 votes in the ~~contest~~ primary election. If a candidate withdraws before the first ballot voting
15 begins, delegates obligated to vote for that candidate on the first ballot are released from that
16 obligation.

17 **SECTION 4. AMENDMENT.** Section 16.1-11-07 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **16.1-11-07. Presidential candidates on ballot - Filing time.** Presidential candidates,
20 representing parties qualified to conduct a presidential preference ~~contest~~ primary, desiring to
21 be on the presidential preference ~~contest~~ primary ballot shall file an affidavit, and either a
22 certificate of endorsement signed by the chairman of the party's state committee, or a petition in
23 the same form and with the same number of signatures as a candidate for state office. The
24 certificate and affidavit, or petition and affidavit, must be filed with the secretary of state not
25 more than seventy nor less than sixty days, and before four p.m. of the sixtieth day before the
26 presidential preference ~~contest~~ primary, and for the purposes of the presidential preference
27 ~~contest~~ primary only, political parties may file certificates for more than one presidential
28 candidate. The secretary of state shall certify the names to the county auditors for ballot
29 preparation.

30 **SECTION 5. AMENDMENT.** Section 16.1-11-23 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-11-23. Presidential preference ~~contest~~ primary ballots.** Paper ballots for the
2 presidential preference primary election must be combined with the primary election ballot, with
3 each party's candidates in the presidential preference primary listed in the same columns as
4 other candidates of that party. Machine or other voting system ballots, including mail ballots,
5 must be prepared so as to place each party's candidates in the presidential preference primary
6 with other candidates of that party. The presidential preference ~~contest~~ primary ballot may
7 allow for voting for only one of the candidates put forth by one party. Ballots must conform in
8 form and style to other ballots as prescribed by the secretary of state and chapter 16.1-11.1.

9 **SECTION 6. AMENDMENT.** Section 16.1-11-34 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **16.1-11-34. Counting and canvassing of votes in presidential preference ~~contest~~**
12 **primary.** The votes cast in presidential preference ~~contests~~ primaries must be counted and
13 canvassed as other votes, and after preparation of statements by the state canvassing board,
14 the secretary of state shall certify the number of votes cast for each party candidate to the state
15 chairman of each political party conducting a presidential preference ~~contest~~ primary.

16 **SECTION 7. AMENDMENT.** Subsection 2 of section 16.1-12-02.2 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 2. A person who intends to be a write-in candidate for president of the United States
19 at the presidential preference ~~contest~~ primary or for statewide or judicial district
20 office at any election shall file a certificate of write-in candidacy with the secretary
21 of state by four p.m. on the twenty-first day before the ~~contest~~ or election. The
22 certificate must contain the name and address of the candidate and be signed by
23 the candidate. Before the thirteenth day before the ~~contest~~ or election, the
24 secretary of state shall certify the names of the candidates to each county auditor
25 as write-in candidates.

26 **SECTION 8. AMENDMENT.** Subsection 2 of section 28-32-01 of the 1997 Supplement
27 to the North Dakota Century Code is amended and reenacted as follows:

28 2. "Administrative agency" or "agency" means each board, bureau, commission,
29 department, or other administrative unit of the executive branch of state
30 government, including one or more officers, or employees, or other persons directly
31 or indirectly purporting to act on behalf or under authority of the agency. An

- 1 administrative unit located within or subordinate to an administrative agency shall
2 be treated as part of that agency to the extent it purports to exercise authority
3 subject to this chapter. The term administrative agency does not include:
- 4 a. The office of management and budget except with respect to rules relating to
5 conduct on the capitol grounds and in buildings located on the capitol grounds
6 under section 54-21-18, rules relating to the state building code as authorized
7 or required under section 54-21.3-03, rules relating to the Model Energy Code
8 as required under section 54-21.2-03, rules relating to the central personnel
9 system as authorized under section 54-44.3-07, rules relating to state
10 purchasing practices as required under section 54-44.4-04, rules relating to
11 records management as authorized or required under chapter 54-46, and
12 rules relating to the central microfilm unit as authorized under chapter
13 54-46.1.
 - 14 b. The adjutant general with respect to the division of emergency management.
 - 15 c. The council on the arts.
 - 16 d. The state auditor.
 - 17 e. The department of economic development and finance.
 - 18 f. The dairy promotion commission.
 - 19 g. The education factfinding commission.
 - 20 h. The educational telecommunications council.
 - 21 i. The board of equalization.
 - 22 j. The board of higher education.
 - 23 k. The Indian affairs commission.
 - 24 l. The industrial commission with respect to the activities of the Bank of North
25 Dakota, the North Dakota housing finance agency, the North Dakota
26 municipal bond bank, the North Dakota mill and elevator association, and the
27 North Dakota farm finance agency.
 - 28 m. The department of corrections and rehabilitation except with respect to the
29 activities of the division of adult services under chapter 54-23.4.
 - 30 n. The pardon advisory board.
 - 31 o. The parks and recreation department.

- 1 p. The parole board.
- 2 q. The state fair association.
- 3 r. The state department of health with respect to the state toxicologist.
- 4 s. The board of university and school lands except with respect to activities
- 5 under chapter 47-30.1.
- 6 t. The administrative committee on veterans' affairs except with respect to rules
- 7 relating to the supervision and government of the veterans' home and the
- 8 implementation of programs or services provided by the veterans' home.
- 9 u. The industrial commission with respect to the lignite research fund except as
- 10 required under section 57-61-01.5.
- 11 ~~v. The secretary of state with respect to rules adopted for the presidential~~
- 12 ~~preference contest under section 16.1-11-02.2.~~

13 **SECTION 9. REPEAL.** Section 16.1-11-02.1 of the North Dakota Century Code is
14 repealed.