

SENATE BILL NO. 2183

Introduced by

Judiciary Committee

(At the request of the Secretary of State)

1 A BILL for an Act to create and enact three new sections to chapter 16.1-11.1 and a new
2 subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code, relating to
3 special statewide elections being conducted by mail, agents receiving mail ballots on behalf of
4 electors, and casting ballots by mail; and to amend and reenact sections 16.1-11.1-01,
5 16.1-11.1-02, 16.1-11.1-04, and 16.1-11.1-06 of the North Dakota Century Code, relating to
6 mail ballot elections for general and special elections and mail ballot procedures.

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

8 **SECTION 1. AMENDMENT.** Section 16.1-11.1-01 of the North Dakota Century Code
9 is amended and reenacted as follows:

10 **16.1-11.1-01. Counties may conduct mail ballot elections - Polling places -**
11 **Records.** The board of county commissioners of a county may conduct a primary ~~election,~~
12 general, and special elections by mail ballot. The mail ballot election must include city elections
13 administered by the county auditor and may include any other election administered by the
14 county auditor pursuant to an agreement with the governing body of a political subdivision
15 within the county. The board ~~shall~~ may designate at least one polling place in the county to be
16 open on the day of the election for voting in the usual manner. The county auditor shall place a
17 notice at all polling places in the county used at the last statewide election which states the
18 location of the polling places open for the ~~primary~~ election. The county auditor shall keep a
19 record of each mail ballot provided to and returned by qualified electors and provide to the
20 election board at each polling place open on the day of the election a list of every person who
21 applied for and returned a mail ballot.

22 **SECTION 2.** A new section to chapter 16.1-11.1 of the North Dakota Century Code is
23 created and enacted as follows:

1 **Special statewide elections may be conducted by mail.** Special statewide elections
2 called by the governor according to this title may be conducted pursuant to the mail ballot
3 election procedures established by this chapter. Notwithstanding any other provision of law, the
4 secretary of state may adopt rules relating to any special statewide elections called by the
5 governor according to this title, including rules providing for the reduction of poll workers,
6 reduction of poll hours, reduction of precincts, arrangement of names of candidates on the
7 official ballot, publication of the sample ballot, and open voting within cities or counties.

8 **SECTION 3. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code
9 is amended and reenacted as follows:

10 **16.1-11.1-02. Application for mail ballots.** The county auditor shall mail an
11 application form for a mail ballot to each person listed in the pollbooks of the county from the
12 ~~last regular~~ most recent statewide general election on one date, or in any other more reliable,
13 comprehensive, and nonpartisan sources available to the county auditor providing a more
14 accurate listing of the qualified electors of the county, no sooner than the ~~forty-fifth~~ fortieth day
15 before the election and no later than the thirtieth day before the election. The county auditor
16 shall take precautions to ensure that applications are mailed to the most current addresses of
17 those persons listed in the pollbooks or in the other reliable and comprehensive sources chosen
18 and may utilize private vendors to achieve that end. The county auditor may also choose to
19 mail additional applications to qualified persons not listed in the pollbooks or in the other reliable
20 sources chosen. Applications that fail to be delivered and are returned to the county auditor are
21 not required to be mailed a second time. The county auditor, for two consecutive weeks after
22 the date on which the mail ballot applications are mailed, shall publish in the official newspaper
23 of the county an application form for a mail ballot and a notice that additional mail ballot
24 applications may be obtained from the election official. The application form for a mail ballot
25 must be in substantially the following form:

26 I, _____, am or will be a duly qualified elector and to my best
27 (please print name)

28 knowledge and belief am or will be entitled to vote at the ~~primary~~ election. I hereby
29 apply for an official mail ballot to be voted by me at that election. I understand that it is
30 a criminal offense to knowingly vote when not qualified to do so.

1 I have or will have resided at the ~~below~~ following North Dakota address for at least
2 thirty days before the election. _____

3 (North Dakota Address of Residency)
4 _____, North Dakota _____
5 (City) (Zip Code)

6 My phone number is _____.

7 Dated this _____ day of _____, ~~19~~ 20 ____.

8 _____
9 (Signature of Applicant)

10 _____
11 (Present Mailing Address If Different From North Dakota Address
12 of Residency Listed Above)

13 _____, ~~North Dakota~~ _____
14 (City) (State) (Zip Code)

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

17 **16.1-11.1-04. Voting by electors.** Upon receipt of a mail ballot, an elector shall mark
18 it, sign the return identification envelope, and comply with the instructions provided with the
19 ballot. The elector may return the completed ballot to the county auditor by mail or, before six
20 p.m. on the day of the election, to any other place of deposit designated by the auditor. If the
21 elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be
22 postmarked no later than the day before the election. An elector who is recorded as returning a
23 mail ballot may not be allowed to vote in person on the day of the election. An elector who is
24 recorded as receiving, but not returning, a mail ballot may vote in person on the day of the
25 election but only after signing a sworn statement that the elector has not voted in the election by
26 mail.

27 **SECTION 5.** A new section to chapter 16.1-11.1 of the North Dakota Century Code is
28 created and enacted as follows:

29 **Delivering ballots - Authorization of agents to receive ballots.** The county auditor
30 shall personally deliver the ballot to each applicant or applicant's agent who returns a properly
31 completed application form to the auditor by five p.m. on the day before the election. A person

1 acting as an agent may not, at the time, be a candidate for any office to be voted upon by the
2 applicant. The agent shall sign the agent's name before receiving the ballot and deposit with
3 the auditor authorization in writing from the applicant to receive the ballot. If the applicant is
4 unable to sign the applicant's name, the applicant shall mark X on the written authorization in
5 the presence of a disinterested person. The disinterested person shall print the name of the
6 applicant below the X and shall sign the name of the disinterested person following the printed
7 name of the applicant with the notation "witness to the mark". A person may not receive
8 compensation, including money, goods, or services, for acting as an agent for an applicant, nor
9 may a person act as an agent for more than four applicants in any one election.

10 **SECTION 6.** A new section to chapter 16.1-11.1 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Casting ballots by mail final.** Once an elector has cast a ballot by mail according to
13 the provisions of this chapter, the voted ballot may not be returned to the elector for any
14 purpose. An elector may not vote again after casting a ballot by mail under the provisions of
15 this chapter.

16 **SECTION 7. AMENDMENT.** Section 16.1-11.1-06 of the North Dakota Century Code
17 is amended and reenacted as follows:

18 **16.1-11.1-06. Canvass of votes - Special election board.** The county auditor shall
19 appoint a special election board for the purpose of counting mail ballots. The board may ~~not~~
20 begin counting the ballots ~~until six p.m.~~ cast prior to the day of the election at the same hour the
21 polls open on the day of the election. The county auditor shall adopt procedures to ensure that
22 election results are not publicly disclosed until after all the polls close in the county on the day
23 of the election. A county conducting a mail ballot election constitutes one voting area, and
24 ballots need not be sorted according to precinct or ward unless necessary for the administration
25 of the election.

26 **SECTION 8.** A new subdivision to subsection 2 of section 28-32-01 of the 1997
27 Supplement to the North Dakota Century Code is created and enacted as follows:

28 The secretary of state with respect to rules adopted for the conduct of special
29 statewide elections under section 2 of this Act.