

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1318

Introduced by

Representatives Tieman, DeKrey, Eckre, Haas, Niemeier

1 A BILL for an Act to amend and reenact subsection 2 of section 16.1-05-01, subsection 2 of
2 section 16.1-07-08, subsection 3 of section 16.1-10-01, sections 16.1-10-02, 16.1-10-04.1,
3 16.1-11-18, 16.1-11-19, and 16.1-15-25 of the North Dakota Century Code, relating to political
4 party reorganization, election officer appointment, absentee ballot affidavits, corrupt election
5 practices, and filling vacancies; and to repeal sections 16.1-12-08 and 46-05-05 of the North
6 Dakota Century Code, relating to filling vacancies and rates for political announcements.

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

8 **SECTION 1. AMENDMENT.** Subsection 2 of section 16.1-05-01 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 2. The election judges and poll clerks for each precinct must be appointed in writing
11 by the district chairs representing the two parties that cast the largest number of
12 votes in the state at the last general election. ~~Each election judge and poll clerk~~
13 ~~must be given a certificate of appointment signed by the chair of the district~~
14 ~~committee of the judge's party.~~ In voting precincts or districts in which over one
15 thousand votes are cast in any election, the county auditor may request each
16 district party chair to appoint an additional election judge. In voting precincts or
17 districts in which over three hundred votes are cast in any election each district
18 party chair may appoint additional poll clerks as determined by the county auditor.
19 The district party chair shall notify the county auditor of the counties in which the
20 precincts are located of the appointment of the election judges and poll clerks at
21 least twenty-one days before the primary, general, or special election. If this notice
22 is not received within the time specified in this section, the county auditor shall
23 appoint the judges and poll clerks. If the county auditor has exhausted all
24 practicable means to select judges and clerks from within the voting precinct and

1 vacancies still remain, the county auditor may select election judges and clerks
2 who reside outside of the voting precinct but who reside within the precinct's
3 legislative district. If vacancies still remain, the county auditor may select election
4 judges and clerks who reside outside of the legislative district but who reside within
5 the county. If at any time before or during an election, it shall be made to appear
6 to an election inspector, by the affidavit of two or more qualified electors of the
7 precinct, that any election judge or poll clerk is disqualified under this chapter, the
8 inspector shall remove that judge or clerk at once and shall fill the vacancy by
9 appointing a qualified person of the same political party as that of the judge or
10 clerk removed. If the disqualified judge or clerk had taken the oath of office as
11 prescribed in this chapter, the inspector shall place the oath or affidavit before the
12 state's attorney of the county.

13 **SECTION 2. AMENDMENT.** Subsection 2 of section 16.1-07-08 of the 1999
14 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15 2. If there is more than one ballot to be voted by an elector of the precinct, one of
16 each kind must be included and an envelope must be enclosed with the ballot or
17 ballots. The front of the envelope must bear the official title and post-office
18 address of the officer supplying the voter with the ballot and upon the other side a
19 printed statement in substantially the following form:

20 Precinct _____

21 Name _____

22 Residential Address _____

23 City _____ ND Zip Code _____

24 Under penalty of possible criminal prosecution for making a false
25 statement, I swear that I reside at the residential address provided
26 above, that I have resided in my precinct for at least thirty days
27 next preceding the election, and this is the only ballot I

28 will cast in this election.

29 Applicant's Signature _____

30 Date _____

1 If the absent voter is unable to sign the voter's name, the voter shall mark (X) that
2 statement in the presence of a disinterested person. The disinterested person
3 shall print the name of the person marking the X below the X and shall sign that
4 person's own name following the printed name with the notation "witness to the
5 mark".

6 **SECTION 3. AMENDMENT.** Subsection 3 of section 16.1-10-01 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 3. Is guilty of the use of state services or property or the services or property of a
9 political subdivision of the state for political purposes.

10 **SECTION 4. AMENDMENT.** Section 16.1-10-02 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **16.1-10-02. Use of state or political subdivision services or property for political**
13 **purposes.**

14 1. No person may use any property belonging to or leased by, or any service which is
15 provided to or carried on by, either directly or by contract, the state or any agency,
16 department, bureau, board, ~~or~~ commission, or political subdivision thereof, for any
17 political purpose.

18 2. The following definitions must be used for the purposes of this section:

19 a. "Political purpose" means any activity undertaken in support of or in
20 opposition to the election or nomination of a candidate to public office whether
21 the activity is undertaken by a candidate, political committee, political party, or
22 any other person but does not include activities undertaken in the
23 performance of a duty of state or political subdivision office.

24 b. "Property" includes, but is not limited to, motor vehicles, telephones,
25 typewriters, adding machines, postage or postage meters, funds of money,
26 and buildings. However, nothing in this section may be construed to prohibit
27 any candidate, political party, committee, or organization from using any
28 public building for such political meetings as may be required by law, or to
29 prohibit such candidate, party, committee, or organization from hiring the use
30 of any public building for any political purpose if such lease or hiring is
31 otherwise permitted by law.

1 c. "Services" includes, but is not limited to, the use of employees during regular
2 working hours for which such employees have not taken annual or sick leave
3 or other compensatory leave.

4 **SECTION 5. AMENDMENT.** Section 16.1-10-04.1 of the North Dakota Century Code
5 is amended and reenacted as follows:

6 **16.1-10-04.1. Certain political advertisements to disclose name of sponsor -**
7 **Name disclosure requirements.** Every political advertisement by newspaper, pamphlet or
8 folder, display card, sign, poster, or billboard, or by any other similar public means, on behalf of
9 or in opposition to any candidate for public office, designed to assist, injure, or defeat the
10 candidate by reflecting upon the candidate's personal character or political action, must
11 disclose ~~at the bottom of~~ on the advertisement the name ~~or names of the sponsor or sponsors~~
12 ~~of the advertisement, and the name or names of the person, persons, associations, or~~
13 ~~partnerships~~ as defined in section 16.1-08.1-01, or political party paying for the advertisement.
14 If the name of ~~an~~ a political party, association, or partnership is used, the disclaimer must also
15 include the name of the chairman or other responsible person from the political party,
16 association, or partnership. The name ~~or names of the person, persons, associations, or~~
17 ~~partnerships~~ or political party paying for any radio or television broadcast containing any
18 advertising announcement for or against any candidate for public office must be announced at
19 the close of the broadcast. If the name of ~~an~~ a political party, association, or partnership is
20 used, the disclaimer must also include the name of the chairman or other responsible person
21 from the political party, association, or partnership. In every political advertisement in which the
22 name of the ~~sponsor or person, association, or partnership~~ or political party paying for the
23 advertisement is disclosed, the first and last name of any named person must be disclosed. An
24 advertisement paid for by an individual candidate or group of candidates must disclose that the
25 advertisement was paid for by the individual candidate or group of candidates. The first and
26 last name or names of the candidates paying for the advertisement are not required to be
27 disclosed. This section does not apply to campaign buttons.

28 **SECTION 6. AMENDMENT.** Section 16.1-11-18 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **16.1-11-18. Party committees to fill vacancy occurring in nomination for party**
31 **office.**

- 1 1. If a vacancy occurs in any party certificate of endorsement at the primary election
2 for any state or legislative district office, the proper state or district executive
3 committee of the political party may fill the vacancy by filing another certificate of
4 endorsement with the proper officer as provided in sections 16.1-11-06 and
5 16.1-11-11.
- 6 2. If no party endorsement has been made by certificate and a vacancy occurs in a
7 slate of candidates seeking party nomination by petition at the primary election, the
8 proper state or district executive committee may fill the vacancy by filing a
9 certificate of endorsement with the proper officer as provided in sections
10 16.1-11-06 and 16.1-11-11.
- 11 3. If party endorsements by certificate have been made for any state or district office
12 and a vacancy occurs in the slate of persons seeking nomination at the primary
13 election because of the unavailability of the person who is seeking nomination by
14 petition, that vacancy may not be filled except by petition.
- 15 4. If a vacancy occurs in a slate of statewide candidates after the candidates have
16 been nominated at the primary election, the proper state executive committee may
17 fill any vacancy by filing a certificate of nomination with the secretary of state. The
18 chairman and secretary of the committee shall make and file with the secretary of
19 state a certificate setting forth the cause of the vacancy, the name of the person for
20 whom the new nominee is to be substituted, the fact that the committee was
21 authorized to fill vacancies, and any further information as may be required to be
22 given in an original certificate of nomination. When such a certificate is filed, the
23 secretary of state shall certify the new nomination and the name of the person who
24 has been nominated to fill the vacancy in place of the original nominee to the
25 various auditors. If the secretary of state already has forwarded the certificate, the
26 secretary of state forthwith shall certify to the auditors the name and address of the
27 new nominee, the office the new nominee is nominated for, the party or political
28 principle the new nominee represents, and the name of the person for whom the
29 new nominee is substituting. Failure to publish the name of a new nominee does
30 not invalidate the election.

1 5. If a vacancy occurs in a slate of legislative candidates after the candidates have
2 been nominated at the primary election, the proper district executive committee
3 may fill the vacancy by filing a certificate of nomination with the county auditor of
4 the new nominee's county of residence. The chairman and secretary of the
5 committee shall make and file with the county auditor of the new nominee's county
6 of residence a certificate setting forth the cause of the vacancy, the name of the
7 person for whom the new nominee is to be substituted, the fact that the committee
8 was authorized to fill vacancies, and any further information as may be required to
9 be given in an original certificate of nomination. When the certificate is filed, the
10 county auditor of the new nominee's county of residence shall certify the new
11 nomination to the various auditors affected by the change and to the secretary of
12 state by forwarding to them the name of the person who has been nominated to fill
13 the vacancy in place of the original nominee. The certification must include the
14 name and address of the new nominee, the office the new nominee is nominated
15 for, the party or political principle the new nominee represents, and the name of
16 the person for whom the new nominee is substituting. Failure to publish the name
17 of a new nominee does not invalidate the election.

18 ~~With the exception of vacancies filled pursuant to section 16.1-12-08, vacancies~~ Vacancies to
19 be filled according to the provisions of this section may be filled not later than sixty days prior to
20 the election.

21 **SECTION 7. AMENDMENT.** Section 16.1-11-19 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of**
24 **filing.** If a vacancy exists on a no-party ballot for a state office or for judge of a district court,
25 the vacancy may be filled by filing with the secretary of state, before four p.m. on the ~~forty-sixth~~
26 sixtieth day prior to the primary election, a written petition as provided in section 16.1-11-06,
27 stating that the petitioner desires to become a candidate for nomination to the office for which a
28 vacancy exists. If the petition is mailed, it must be in the possession of the secretary of state
29 before four p.m. on the ~~forty-sixth~~ sixtieth day prior to the primary election. The petition for the
30 nomination of any person to fill the vacancy must be signed by qualified electors equal in
31 number to at least two percent of the total vote cast for governor at the most recent general

1 election in the state or district at which the office of governor was voted upon, but in no case
2 may more than three hundred signatures be required.

3 If a vacancy exists on a no-party ballot in a county or district within a county, the
4 vacancy may be filled by filing with the county auditor, before four p.m. of the ~~fifty-sixth~~ sixtieth
5 day prior to the primary election, a written petition as provided in section 16.1-11-11, stating
6 that the petitioner desires to become a candidate for nomination to the office for which a
7 vacancy exists. If the petition is mailed, it must be in the possession of the county auditor
8 before four p.m. on the ~~fifty-sixth~~ sixtieth day prior to the primary election. The petition for the
9 nomination of any person to fill the vacancy must be signed by qualified electors as provided in
10 subdivision c of subsection 2 of section 16.1-11-11. A vacancy in the no-party ballot must be
11 deemed to exist when a candidate who was qualified by filing a petition pursuant to section
12 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have the
13 candidate's name printed on the ballot.

14 **SECTION 8. AMENDMENT.** Section 16.1-15-25 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **16.1-15-25. County auditor to forward abstract of votes of general election to**
17 **secretary of state - Contents - Abstract for presidential electors.** Within ten days and
18 before four p.m. on the tenth day following any general election, the county auditor of each
19 county, under official seal, shall return to the secretary of state a certified abstract of the votes
20 cast in the county at the election for each candidate for state and congressional offices, judges
21 of the district courts, candidates for the legislative assembly, and for amendments to the
22 constitution and other measures. In presidential years the county auditor shall make a
23 separate certified abstract of the votes cast for electors for president and vice president of the
24 United States. The separate abstract for presidential electors must be sealed, endorsed
25 "presidential election returns", and must be transmitted by registered or certified mail to the
26 secretary of state. ~~At the time the county auditor transmits the certified abstract of the votes~~
27 ~~east in the county, the county auditor shall file with the secretary of state the names and~~
28 ~~addresses of the persons who were elected to the various county offices in the county.~~

29 **SECTION 9. REPEAL.** Sections 16.1-12-08 and 46-05-05 of the North Dakota Century
30 Code are repealed.