

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1318
(Representatives Tieman, DeKrey, Eckre, Haas, Niemeier)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

2. The election judges and poll clerks for each precinct must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. ~~Each election judge and poll clerk must be given a certificate of appointment signed by the chair of the district committee of the judge's party.~~ In voting precincts or districts in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge. In voting precincts or districts in which over three hundred votes are cast in any election each district party chair may appoint additional poll clerks as determined by the county auditor. The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges and poll clerks at least twenty-one days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges and poll clerks. If the county auditor has exhausted all practicable means to select judges and clerks from within the voting precinct and vacancies still remain, the county auditor may select election judges and clerks who reside outside of the voting precinct but who reside within the precinct's legislative district. If vacancies still remain, the county auditor may select election judges and clerks who reside outside of the legislative district but who reside within the county. If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that any election judge or poll clerk is disqualified under this chapter, the inspector shall remove that judge or clerk at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge or clerk removed. If the disqualified judge or clerk had taken the oath of office as prescribed in this chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.

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

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

Precinct _____
Name _____
Residential Address _____
City _____ ND Zip Code _____

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

Applicant's Signature _____
Date _____

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

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

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

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

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

1. No person may use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, ~~or~~ commission, or political subdivision thereof, for any political purpose.
2. The following definitions must be used for the purposes of this section:
 - a. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, political committee, political party, or any other person but does not include activities undertaken in the performance of a duty of state or political subdivision office.
 - b. "Property" includes, but is not limited to, motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section may be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.
 - c. "Services" includes, but is not limited to, the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.

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

16.1-10-04.1. Certain political advertisements to disclose name of sponsor - Name disclosure requirements. Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, or by any other similar public means, on behalf of or in opposition to any candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, must disclose ~~at the bottom of~~ on the advertisement the name ~~or names of the sponsor or sponsors of the advertisement, and the name or names of the person, persons, associations, or partnerships as defined in section 16.1-08.1-01, or political party~~ paying for the advertisement. If the name of an a political party, association, or partnership is used, the

disclaimer must also include the name of the chairman or other responsible person from the political party, association, or partnership. The name ~~or names~~ of the person, ~~persons, associations, or partnerships~~ or political party paying for any radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of ~~an~~ a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible person from the political party, association, or partnership. In every political advertisement in which the name of the ~~sponsor~~ person, association, or partnership or political party paying for the advertisement is disclosed, the first and last name of any named person must be disclosed. An advertisement paid for by an individual candidate or group of candidates must disclose that the advertisement was paid for by the individual candidate or group of candidates. The first and last name or names of the candidates paying for the advertisement are not required to be disclosed. This section does not apply to campaign buttons.

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

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

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
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 proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy may not be filled except by petition.
4. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the proper state executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state shall certify the new nomination and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded the certificate, the secretary of state forthwith shall certify to the auditors the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the county auditor of the new nominee's county of residence. The chairman and secretary of the committee shall make and file with the county auditor of the new nominee's county of residence a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the county auditor of the new nominee's county of residence shall certify the new nomination to the various auditors affected by the change and to the secretary of state by forwarding to them the name of the person who has been nominated

to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.

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

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

16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of filing.

If 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 ~~fifty-sixth~~ sixtieth day prior to the primary election, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the ~~fifty-sixth~~ sixtieth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1318.

House Vote: Yeas 72 Nays 26 Absent 0

Senate Vote: Yeas 45 Nays 3 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State