

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1497

Introduced by

Representatives Grande, Belter, DeKrey, Timm

Senators Christmann, Klein

1 A BILL for an Act to amend and reenact sections 15.1-09-11, 16.1-06-04, 16.1-06-05,
2 16.1-06-06, 16.1-06-07.1, 16.1-06-08, 16.1-06-09, 16.1-06-18, 16.1-11-22, 16.1-11-24, and
3 16.1-11-35, subsection 1 of section 16.1-12-02.2, and sections 16.1-13-22, 16.1-13-23, and
4 16.1-13-25 of the North Dakota Century Code, relating to election process administration; and
5 to repeal section 16.1-13-26 of the North Dakota Century Code, relating to election process
6 administration.

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

8 **SECTION 1. AMENDMENT.** Section 15.1-09-11 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **15.1-09-11. School district elections - Preparation of ballots –~~Stickers.~~**

- 11 1. At least twenty days before the election, the business manager shall prepare and
12 cause to be printed, or otherwise uniformly reproduced, an official ballot containing
13 the names of all individuals who have indicated their intent to be candidates by
14 meeting the provisions of section 15.1-09-08. The business manager shall
15 ~~determine by lot, in the presence of the candidates or their representatives, the~~
16 ~~arrangement of the candidates' names upon the ballot~~ notify the candidates as to
17 the time and place of the drawing for position on the ballot.
- 18 2. The ballot must be nonpartisan in form and include:
- 19 a. The words "official ballot" at the top;
- 20 b. The name of the school district;
- 21 c. The date of the election;
- 22 d. The number of persons to be elected to each office; and
- 23 e. Below the list of candidates for each office, blank spaces in which names not
24 printed on the ballot may be written.

1 name of each candidate must be printed an oval in which the voter is to mark the
2 voter's choice by darkening the oval next to the name of the candidate chosen.

3 8- 7. ~~Provide a space enclosed in a rectangle and have printed next to the rectangle the~~
4 ~~following language: "All ballots, other than those used to vote absentee, must first~~
5 ~~be stamped and initialed by appropriate election officials in order to be counted."~~ If
6 ~~a stamp with an inkpad is not required under section 16.1-06-18, the language~~
7 ~~next to the rectangle must be: two text boxes in the bottom right-hand corner of the~~
8 party ballot. The first text box is to contain the words "All ballots, other than those
9 used to vote absentee, must first be initialed by appropriate election officials in
10 order to be counted." The second text box is to contain the words "Official Ballot",
11 the name of the county, the name or number of the precinct or the word "precinct"
12 preceding a blank line upon which the judge or the inspector shall write the name
13 or number of the precinct, the date of the election, and the word "initials" preceding
14 a blank line where the judge or inspector shall initial the ballot.

15 <u>All ballots, other than</u>	<u>Official Ballot</u>
16 <u>those used to vote absentee,</u>	_____ <u>County</u>
17 <u>must first be initialed by</u>	_____ <u>Precinct</u>
18 <u>appropriate election officials</u>	<u>(Date of the Election)</u>
19 <u>in order to be counted</u>	<u>Initials</u> _____

20 Any precinct that uses an electronic counting machine may require the use of a
21 particular writing instrument to mark the ballot so the ballots may be properly counted.

22 ~~In precincts in which electronic voting systems are used, the~~ The ballot must contain the
23 names of all candidates, the contents of measures as required by section 16.1-06-09, and the
24 statements of questions to be submitted to the voters. The ballot must ~~otherwise~~ be arranged
25 in a manner and form approximating as far as possible the requirements of this section.

26 **SECTION 3. AMENDMENT.** Section 16.1-06-05 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-06-05. Form of general election ballot.** The official ballots provided for in this
29 title for partisan election at general elections ~~in precincts in which electronic voting systems are~~
30 ~~not used~~ must be prepared as follows:

- 1 1. The ballots must be of sufficient length and width to contain a continuous listing of
- 2 the designation of all the offices to be voted for.
- 3 2. On the top left-hand side of such ballot must begin a continuous listing of the
- 4 designation of each office to be voted for, and under the designation of each office
- 5 all of the names of the candidates duly nominated for that office must be printed.
- 6 3. The names of candidates nominated for each office must appear under the
- 7 designation of that office, and under each candidate's name must appear, in
- 8 smaller type, the appropriate party designation for each candidate. Where a
- 9 candidate has been nominated by petition, the designation under that candidate's
- 10 name, in smaller type, must be "independent nomination".
- 11 4. The names of candidates under the designation of each office must be alternated
- 12 in the printing of the official ballot in the same manner as is provided for the
- 13 primary election ballot.
- 14 5. The size of type must be as specified by the secretary of state.
- 15 ~~In precincts in which electronic voting systems are used, the~~ The list of offices and candidates
- 16 and the statements of measures and questions to be submitted to the voters must be arranged
- 17 on the ballot in a manner and form approximating as far as possible the requirements of this
- 18 section.

19 **SECTION 4. AMENDMENT.** Section 16.1-06-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **16.1-06-06. General election ballots for persons authorized to vote for**
22 **presidential electors only - Prepared separately - General law governs.** In addition to the
23 ballots prepared pursuant to section 16.1-06-05, ballots must be prepared containing only the
24 names of duly certified candidates for presidential electors for use by persons authorized to
25 vote for those offices by law. The provisions of this title regarding the preparation, form,
26 arrangement of names, ~~delivering, and stamping~~ and delivering of ballots must govern in
27 regard to the general election ballot prepared pursuant to this section. The ballots prepared
28 pursuant to this section must be delivered to electors who qualify only to vote for presidential
29 electors pursuant to sections 16.1-14-18 and 16.1-14-19.

30 **SECTION 5. AMENDMENT.** Section 16.1-06-07.1 of the North Dakota Century Code
31 is amended and reenacted as follows:

1 **16.1-06-07.1. Arrangement of names on ballot - Presidential electors.** In
2 presidential election years the ballot provided for in section 16.1-06-05 must include the
3 designation of the office of president and vice president as the first listing of the continuous
4 listing of the designation of each office to be voted for. The names of presidential electors,
5 presented in one certificate of nomination, must be arranged in a group enclosed in brackets
6 under the designation of the office of president and vice president on the right side of the ballot
7 column. To the ~~right~~ left and opposite the center of each group of electors' names must be
8 printed in bold type the surname of the presidential candidate represented and in line with such
9 surname must be placed a single ~~square~~ oval. A mark within such ~~square~~ oval by the voter
10 must be designated as a vote for all the electors. The appropriate party designation must
11 appear, in smaller type, under the surname of the presidential candidate represented.

12 **SECTION 6. AMENDMENT.** Section 16.1-06-08 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-06-08. No-party ballot at general elections - Contents - Delivered to elector.**
15 There must be a separate no-party ballot at the general election upon which must be placed the
16 names of all candidates who have been nominated on the no-party primary ballot at the primary
17 election. Such ballots must be in the same form as the no-party primary ballot and must be
18 delivered to each elector by the proper election official. ~~In precincts in which electronic voting~~
19 ~~systems are used,~~ The separate ballot may be on the same paper or electronic ballot, but the
20 list of offices and candidates must be entitled "no-party ballot" in a manner to clearly indicate
21 the separation of the no-party list of offices and candidates from the party list of offices and
22 candidates.

23 **SECTION 7. AMENDMENT.** Section 16.1-06-09 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **16.1-06-09. Constitutional amendments and initiated and referred measures -**
26 **Manner of stating question - Explanation of effect of vote - Order of listing.** Constitutional
27 amendments or measures, initiated measures, and referred measures, duly certified to the
28 county auditor by the secretary of state, or any other question or measure to be voted on,
29 except the election of public officers at any primary, general, or special election including
30 officers subject to a recall petition, must, unless otherwise determined by the secretary of state,
31 be stated in full in a legible manner on the ~~paper ballot or the ballot card when using an~~

1 ~~electronic voting system purchased after June 30, 1985, and the ballot label when using an~~
2 ~~electronic voting system purchased before July 1, 1985.~~ If the secretary of state concludes the
3 amendment or measure is too long to make it practical to print in full, the secretary of state in
4 consultation with the attorney general shall cause to be printed a short, concise summary,
5 which must fairly represent the substance of the constitutional amendment or initiated or
6 referred measure. After the foregoing statement, the secretary of state shall cause to be
7 printed another short, concise statement of the effect of an affirmative or negative vote on the
8 constitutional amendment or initiated or referred measure. This explanatory statement must be
9 drafted by the secretary of state in consultation with the attorney general. The words "Yes" and
10 "No" must be printed on the ballot at the close of the statement regarding the effect of an
11 affirmative or negative vote, in separate lines with ~~a square formed of black lines after~~ an oval
12 before each statement in which the voter ~~may is to~~ indicate ~~by a cross or other mark~~ how the
13 voter desires to vote on the question by darkening the oval. Where two or more amendments
14 or questions are to be voted on, they must be printed on the same ballot.

15 The measures to be submitted to the electors must be grouped and classified as
16 constitutional measures, initiated statutes, or referred statutes and must be placed within such
17 groups or classifications by the secretary of state in the order received, for the purpose of
18 placing them on the ballot. Measures submitted by the legislative assembly must be placed
19 first on the ballot within their classification in the order approved by the legislative assembly.
20 Constitutional measures shall be placed first on the ballot, initiated statutes second, and
21 referred statutes third. After all the measures have been placed within the appropriate group or
22 classification, all measures must be numbered consecutively, without regard to the various
23 groups or classifications.

24 **SECTION 8. AMENDMENT.** Section 16.1-06-18 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **16.1-06-18. Delivery of ballots ~~–Official stamp delivered.~~** At the meeting precinct
27 election officials' training sessions provided for in section 16.1-05-03, the county auditors shall
28 deliver, or cause to be delivered, by mail or other reliable method, to the inspector of elections
29 in each precinct the official ballots, if available. The ballots must be delivered in sealed
30 packages marked plainly on the outside designating the number of ballots enclosed and the
31 precinct for which the ballots are intended. ~~The county auditor shall deliver or cause to be~~

1 ~~delivered to the inspector, or if that is impracticable, to one of the election judges of the~~
2 ~~precinct, a stamp and inkpad for the purpose of stamping each ballot with the words "official~~
3 ~~ballot" and the name or number of the precinct, the name of the county, the date of the election,~~
4 ~~and providing for a blank line preceded by the word "initials" for the purpose of providing a~~
5 ~~space where the judge or inspector shall initial the ballot. The stamp and inkpad are not~~
6 ~~required if that information is preprinted on the ballot. If the information is preprinted on the~~
7 ~~ballot, the name or number of the precinct may be replaced by the word "precinct" followed by a~~
8 ~~blank line where the judge or inspector shall write in the name or number of the precinct. The~~
9 ~~county auditor shall deliver or cause to be delivered a suitable seal for the purpose of wrapping~~
10 ~~and sealing the stamp and inkpad at the close of the voting but before the counting of the~~
11 ~~ballots if a stamp is required. The county auditor also shall deliver or cause to be delivered a~~
12 ~~suitable seal, which has the name of the county inscribed thereon, for the purpose of sealing~~
13 ~~the wrapper containing the ballots as provided in section 16.1-15-08.~~

14 **SECTION 9. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only**
17 **one party.** At the primary election there may be only one ballot for all parties or principals.
18 The ballot must be in the following form:

- 19 1. The ballot must be entitled the "consolidated primary election ballot".
- 20 2. Each party or principal having candidates at the primary election must have a
21 separate column on the ballot; ~~the columns must be separated by a solid six point~~
22 ~~rule.~~
- 23 3. At the head of each column must be printed the name of the political party or
24 principal which it represents.
- 25 4. In each column below the party or principal title must be printed: "You may vote
26 for the candidates of only one party at the primary election. If you cast votes in
27 more than one party column and vote for candidates of more than one party, your
28 party ballot will be rejected."
- 29 5. Immediately below the warning against voting for candidates of more than one
30 party must be printed: ~~"Put a crossmark (X) opposite the name of the candidate~~
31 ~~for whom you wish to vote. To vote for a person whose name is not printed on the~~

1 ~~ballot write or paste that person's name in the blank space provided for that~~
2 ~~purpose."~~ "To vote for the candidate of your choice, you must darken the oval
3 opposite the name of the candidate. To vote for a person whose name is not
4 printed on the ballot, write that person's name in the blank space provided for that
5 purpose and darken the oval opposite the space provided."

6 6. The offices specified in section 16.1-11-26 must be arranged in each column with
7 the name of each office in the center of each party column at the head of the
8 names of all the aspirants for the office.

9 7. Immediately under the name of each office must be printed: "Vote for no more
10 than _____ name (or names)."

11 8. ~~At the side of the name of each aspirant and in a column must be printed a square~~
12 ~~or other figure for making a crossmark or other mark. No squares or other figures~~
13 ~~may be printed at the head of the ballot. Immediately preceding and on the same~~
14 ~~line as the name of each aspirant must be printed an oval in which the voter is to~~
15 ~~mark the voter's choice by darkening the oval next to the name of the candidate~~
16 ~~chosen.~~

17 9. The political party or principal which cast the largest vote for governor at the most
18 recent primary election at which the office of governor was voted upon must have
19 the left-hand column, and the party or principal casting the next largest vote must
20 have the next column, and so on.

21 The judges and the inspector of elections shall inform each elector at the primary, before
22 voting, that if the voter votes for candidates of more than one party the voter's party ballot will
23 be rejected.

24 **SECTION 10. AMENDMENT.** Section 16.1-11-24 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **16.1-11-24. No-party primary ballot - Contents.** There must be a separate ballot at
27 all primary elections which must be entitled "no-party primary ballot". The names of aspirants
28 for nomination to each office must be arranged on the no-party primary ballot in separate
29 groups in their order. ~~In precincts in which voting machines are used,~~ The separate ballot may
30 be on the same paper or electronic ballot, but the list of offices and candidates must be entitled
31 "no-party primary ballot" in a manner to indicate clearly the separation of the no-party list of

1 offices and candidates from the party list of offices and candidates. The names of all
2 candidates for any of the offices mentioned in section 16.1-11-08 must be placed on the ballot
3 without party designation. Immediately under the name of each office must be placed the
4 language "Vote for no more than _____ name (or names)." The number inserted must
5 be the number to be elected to the office at the next succeeding general election.

6 **SECTION 11. AMENDMENT.** Section 16.1-11-35 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **16.1-11-35. Nominations by stickers write-in.** ~~On both the party and the no-party~~
9 ~~ballot, a candidate may be nominated by having the candidate's name written on the ballot or~~
10 ~~by a printed sticker being placed in a blank line left for that purpose underneath the group of~~
11 ~~candidates in each official position. Not more than one name may be written or printed on any~~
12 ~~sticker. The provisions of this title do not prevent any elector from writing on the paper ballot,
13 or in the case of direct-recording electronic voting system devices, entering by touchscreen or
14 other date entry device, the name of any person for whom the elector desires to vote, and such
15 vote must be counted according to the provisions for the counting of write-in votes found in
16 section 16.1-12-02.2.~~

17 **SECTION 12. AMENDMENT.** Subsection 1 of section 16.1-12-02.2 of the North
18 Dakota Century Code is amended and reenacted as follows:

- 19 1. An election board or canvassing board may not count or be required to officially
20 report any write-in vote for any:
- 21 a. Person who is required to file a certificate of write-in candidacy under this
22 section but who has not filed a certificate of candidacy and been certified as a
23 write-in candidate.
 - 24 b. Fictitious person, nonperson, or person clearly not eligible to qualify for the
25 office for which the vote was cast.
 - 26 c. Statement concerning the candidates.
 - 27 d. Name written or printed by the voter for an office that did not also include the
28 darkening of the oval next to the write-in line.
 - 29 e. Write-in votes which constitute five percent or less of the votes cast by the
30 voters for the candidate receiving the most votes for that office, except in the
31 case of a primary election where enough votes were cast as write-in votes to

1 qualify a name for the general election ballot. This percentage is to be
2 calculated based on the total number of write-in votes tabulated by the voting
3 equipment in the precincts of the county in which that office was on the ballot.
4 f. Write-in votes that do not need to be individually canvassed based on the
5 requirements of this subsection must be listed on the county canvass report
6 as "scattered write-ins".

7 **SECTION 13. AMENDMENT.** Section 16.1-13-22 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **16.1-13-22. Delivering ballot to elector - ~~Stamping~~ Initialing.** The inspector or one
10 of the election judges shall deliver ballots to the qualified electors. The inspector or judge
11 delivering the paper ballot shall inform each elector that if the ballot is not stamped and initialed
12 by an election official it will be invalidated and to protect the elector's right to vote the elector
13 should verify that the ballot has been stamped and initialed.

14 1. ~~The paper ballot is considered stamped if it is either stamped with a stamp and an~~
15 ~~inkpad or has the stamped information preprinted on the paper ballot, as provided~~
16 ~~in section 16.1-06-18.~~

17 ~~2.~~ At primary elections, the inspector or judge shall also inform each elector that if the
18 elector splits the party ballot or votes for candidates of more than one party the
19 elector's party ballot will be rejected.

20 ~~3.~~ 2. Before delivering any paper ballot to an elector, the inspector or judge shall ~~stamp~~
21 ~~once in the rectangle provided on the ballot, if required under subsection 1, the~~
22 ~~designation "official ballot" and the other words provided for in section 16.1-06-18,~~
23 ~~and also shall initial the ballot. Failure to stamp and initial a paper ballot in the~~
24 ~~proper place does not invalidate the ballot, but a complete failure to stamp and~~
25 ~~initial a paper ballot does invalidate the ballot.~~

26 **SECTION 14. AMENDMENT.** Section 16.1-13-23 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-13-23. Preparation of ballot by elector -~~Folding~~ - Depositing -**
29 **Second-chance voting.** Upon receipt of a ballot within the provided secrecy sleeve, the
30 elector, forthwith and without leaving the polling place, shall retire alone to one of the voting
31 booths or compartments to prepare the elector's ballot by ~~placing a crossmark (X) or other~~

1 ~~mark which clearly shows the intention of the elector within the square~~ darkening the oval
2 opposite the name of each person for whom the elector wishes to vote. In the case of a ballot
3 containing a constitutional amendment, an initiated or referred measure, or any other question
4 to be submitted to a vote of the people, the elector shall ~~place the crossmark (X) or other mark~~
5 ~~within the square~~ darken the oval opposite the word or words expressing the elector's wish.
6 After preparing the ballot, the elector shall ~~fold it so the face of~~ place the ballot back in the
7 provided secrecy sleeve so it is concealed and so the endorsement of the inspector or election
8 judge ~~stamped thereon~~ may be seen. The elector then shall ~~hand the ballot to the judge, who,~~
9 ~~without opening the same or permitting it to be opened or examined except to ascertain~~
10 ~~whether it is a single ballot and whether it has been stamped and initialed,~~ shall deposit it the
11 ballot in the optical scanning device and wait to determine if the ballot is deposited into the
12 ballot box or if the optical scanning device has indicated a possibility for a second-chance
13 voting condition. In precincts which use an electronic counting device, the ballot need not be
14 ~~folded before handing the ballot to the judge. If a second-chance voting condition is indicated,~~
15 a voter may spoil and receive up to two additional ballots. The voter's third ballot must be cast
16 as is even if errors exist causing certain votes not to be counted.

17 **SECTION 15. AMENDMENT.** Section 16.1-13-25 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **16.1-13-25. Elector may write ~~or paste~~ name on ballot - Counting.** The provisions
20 of this title do not prevent any elector from writing ~~or pasting~~ on the paper ballot, or in the case
21 of direct-recording electronic voting system devices, entering by touchscreen or other data
22 entry device, the name of any person for whom the elector desires to vote, and such vote must
23 be counted ~~the same as if printed on the ballot and marked by the elector~~ according to the
24 provisions for the counting of write-in votes found in section 16.1-12-02.2.

25 **SECTION 16. REPEAL.** Section 16.1-13-26 of the North Dakota Century Code is
26 repealed.