

**HOUSE BILL NO. 1345**

Introduced by

Representatives Pollert, Kasper, Kempenich

Senator O'Connell

1 A BILL for an Act to amend and reenact sections 16.1-01-01, 16.1-07-10, 16.1-15-12, and  
2 16.1-15-13 of the North Dakota Century Code, relating to safeguarding of ballots.

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

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

6 **16.1-01-01. Secretary of state to supervise election procedures - County**  
7 **administrator of elections.**

- 8 1. The secretary of state must be, ex officio, supervisor of elections and may employ  
9 additional personnel to administer this title. The secretary of state shall supervise the  
10 conduct of elections and in that supervisory capacity has, in addition to other powers  
11 conferred by law, the power to examine upon the secretary of state's request or the  
12 request of any election official, any election ballot or other material, electronic voting  
13 system or counting machine authorized by chapter 16.1-06, or device used in  
14 connection with any election, for the purpose of determining sufficient compliance with  
15 the law and established criteria and standards adopted by the secretary of state  
16 according to section 16.1-06-26. The secretary of state, upon determining that any  
17 ballot or other material, electronic voting system or counting machine, or device is not  
18 in sufficient compliance with the law or established criteria and standards, shall direct  
19 the proper changes to be made, and in the case of electronic voting systems and  
20 counting machines, may decertify the electronic voting systems and counting  
21 machines according to the rules adopted under section 16.1-06-26.
- 22 2. In addition to other duties provided elsewhere by law, the secretary of state shall:
- 23 a. Develop and implement uniform training programs for all election officials in the  
24 state.

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- 1           b. Prepare information for voters on voting procedures.
- 2           c. Publish and distribute an election calendar, a manual on election procedures, and
- 3           a map of all legislative districts.
- 4           d. Convene a state election conference of county auditors at the beginning of each
- 5           election year and whenever deemed necessary by the secretary of state to
- 6           discuss uniform implementation of state election policies.
- 7           e. Prescribe the form of all ballots and the form and wording of ballots on state
- 8           referendum questions, issues, and constitutional amendments.
- 9           f. Investigate or cause to be investigated the nonperformance of duties or violations
- 10          of election laws by election officers.
- 11          g. Require such reports from county auditors on election matters as deemed
- 12          necessary.
- 13          h. Certify results of statewide elections.
- 14          i. Prepare and publish reports whenever deemed necessary on the conduct and
- 15          costs of voting in the state, including a tabulation of election returns and such
- 16          other information and statistics as deemed appropriate.
- 17          j. Establish standards for voting precincts and polling locations, numbering
- 18          precincts, precinct maps, maintaining and updating pollbooks, and forms and
- 19          supplies, including but not limited to, ballots, pollbooks, and reports.
- 20          k. Prescribe the order in which each political subdivision will appear on an election
- 21          ballot.
- 22          l. Develop and conduct a test election for the state's voting system prior to each
- 23          statewide election utilizing the votes cast within each county according to the
- 24          logic and accuracy testing required in section 16.1-06-15.
- 25          m. Develop standards to be followed by county auditors and other election officials
- 26          regarding the safeguarding of ballots from the time the official ballots are printed
- 27          until the time the ballots are destroyed under section 16.1-15-13. The standards
- 28          must provide that each governing body responsible for the administration of an
- 29          election shall appoint one individual in addition to the election administrator for
- 30          that jurisdiction to be responsible for safeguarding undistributed ballots, returned
- 31          absentee and mail ballots, and all other completed ballots.

- 1           3. In carrying out the secretary of state's duties and to assure uniform voting  
2           opportunities throughout the state, and for the purpose of implementing the provisions  
3           of this title and any other requirement imposed upon the state by the Help America  
4           Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15301 et seq.] not  
5           otherwise addressed in this Act, the secretary of state may from time to time issue  
6           rules the secretary of state deems necessary, which must be consistent with the  
7           provisions of this title or the Help America Vote Act of 2002 and be adopted and  
8           published in accordance with chapter 28-32, but which need not comply with section  
9           28-32-07.
- 10          4. In each county there must be a county administrator of elections who must be the  
11          county auditor. The county auditor is responsible to the secretary of state for the  
12          proper administration within the auditor's county of state laws, rules, and regulations  
13          concerning election procedures.
- 14          5. a. In addition to other statutory duties, the county auditor shall:
- 15            a- (1) Procure and distribute supplies required for voting in the county.
- 16            b- (2) Prepare and disseminate voter information as prescribed by the secretary of  
17            state.
- 18            c- (3) Fully comply with the test election required of this section.
- 19            d- (4) Carry out uniform training programs for all county and precinct election  
20            officials as prescribed by the secretary of state.
- 21            (5) In cooperation with the individual appointed by the board of county  
22            commissioners, fully comply with the standards established by the secretary  
23            of state to ensure the safeguarding of ballots.
- 24            e- (6) Receive and handle complaints referred to the county auditor by any voter  
25            or precinct official involving circulation of petitions, challenges to voters,  
26            actions of election officials, or irregularities of any kind in voting. The county  
27            auditor shall refer complaints to the secretary of state or the proper  
28            prosecuting authority, as the county auditor deems appropriate.
- 29          b. Upon completion of the duties required by this subsection, the county auditor  
30          shall certify to the secretary of state, in the manner prescribed by the secretary of  
31          state, that the duties have been completed.

1       **SECTION 2. AMENDMENT.** Section 16.1-07-10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **16.1-07-10. Care and custody of ballot.**

4       Upon receipt of an envelope containing the absent voter's ballot, the proper officer and the  
5 individual appointed by the appropriate governing body to assist the election officer immediately  
6 shall attach the application of the absent voter and file the ballot with other absentee ballots  
7 from the same precinct. Before delivering the absentee ballots to the precinct, the proper officer  
8 and the individual appointed by the appropriate governing body to assist the election officer  
9 shall package the ballots in a manner so the ballots are sealed securely. The package must be  
10 endorsed with the name of the proper voting precinct, the name and official title of the officer  
11 and the appointed individual, and the words "This package contains an absent voter's ballot and  
12 must be opened only according to the processing provisions of section 16.1-07-12." The officer  
13 shall keep the package safely in the officer's office until it is delivered by the officer as provided  
14 in this chapter.

15       **SECTION 3. AMENDMENT.** Section 16.1-15-12 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17       **16.1-15-12. Care and custody of ballot boxes and voting machines.**

18       Ballot boxes and voting machines are to be under the care and custody of the county  
19 auditor and assigned staff members and at least one other individual designated by the board of  
20 county commissioners.

21       **SECTION 4. AMENDMENT.** Section 16.1-15-13 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **16.1-15-13. County recorder to keep ballots - Exception - Use of ballots as evidence.**

24       Immediately upon receiving the ballots as provided in section 16.1-15-08, the county  
25 recorder shall give a receipt to the election judges and shall place the ballots properly arranged  
26 in the order of the precinct number in boxes that ~~shall~~must be securely locked. The boxes must  
27 be placed in a fireproof vault and must be kept securely for ~~forty-five~~ninety days if the ballots do  
28 not contain federal offices and twenty-two months if the ballots contain federal offices. With the  
29 exception of the ballots containing lawful write-in votes that may be counted at the meeting of  
30 the county canvassing board, the ballots may not be opened nor inspected, except upon court  
31 order in a contested election, when it is necessary to produce ~~them~~the ballots at a trial for any

1 offense committed at an election, or to permit election officials to complete their duties. Either  
2 ~~forty-five~~ninety days or twenty-two months after the election dependent upon the retention  
3 schedule outlined in this section, upon determination by the county recorder that no contest is  
4 pending, the ballots must be destroyed. If any contest of the election of any officer voted for at  
5 the election or a prosecution under ~~the provisions of~~ this title is pending at the expiration of such  
6 time, the ballots may not be destroyed until the contest or prosecution is finally determined. The  
7 ballots returned to the county recorder as provided in this section must be received in evidence  
8 without introducing further foundation.