

**HOUSE BILL NO. 1239**

Introduced by

Representatives Kempenich, Brabandt, Hanson, Laning, Rohr, Thoreson

Senators Armstrong, Schaible

1 A BILL for an Act to amend and reenact sections 4-22-17, 12.1-14-02, 16.1-07-10, 16.1-10-06.1,  
2 subsection 2 of section 16.1-11-11, and sections 16.1-11.1-05, 16.1-12-02.2, 16.1-13-23,  
3 16.1-13-32, 61-24-03.1, and 61-24.5-07 of the North Dakota Century Code, relating to election  
4 administration.

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

6 **SECTION 1. AMENDMENT.** Section 4-22-17 of the North Dakota Century Code is amended  
7 and reenacted as follows:

8 **4-22-17. Nominating petitions - Petitions required - Final filing date.**

9 Any person running for the office of supervisor shall present to the county auditor of the  
10 county in which the district lies a petition giving that person's name and mailing address and the  
11 title and term of the office, and containing the signatures of not less than twenty-five nor more  
12 than three hundred qualified electors of the district. When a district lies in more than one county,  
13 the petition must be filed with the county auditor of the county where the candidate resides, and  
14 such county auditor shall certify to the county auditors of the other counties in which such  
15 district lies the name and mailing address of the candidate filing such petition. At the same time,  
16 the county auditor, or auditors in the case of multicounty districts, shall also certify to the  
17 secretary of state the name and mailing address of each person filing a nominating petition  
18 according to this section. No person may participate directly or indirectly in the nomination for  
19 more than one person for each office to be filled. The final filing date for nominating petitions is  
20 no later than ~~sixty~~sixty-four days before the day of the election and not later than four p.m. of  
21 such day.

22 Upon receipt of the petition or the certification as provided in this section, the county auditor  
23 shall without fee place the name of the candidate so nominated on the no-party ballot at the  
24 ensuing general election.

1       **SECTION 2. AMENDMENT.** Section 12.1-14-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **12.1-14-02. Interference with elections.**

4       A person is guilty of a class A misdemeanor if, whether or not acting under color of law,  
5 ~~he~~the person, by force or threat of force or by economic coercion, intentionally:

- 6       1. Injures, intimidates, or interferes with another because ~~he~~the other individual is or has  
7       been voting for any candidate or issue or qualifying to vote, qualifying or campaigning  
8       as a candidate for elective office, or qualifying or acting as a ~~poll watcher or other~~an  
9       election official or an election observer, in any primary, special, or general election.
- 10      2. Injures, intimidates, or interferes with another in order to prevent ~~him~~that individual or  
11      any other ~~person~~individual from voting for any candidate or issue or qualifying to vote,  
12      qualifying or campaigning as a candidate for elective office, or qualifying or acting as a  
13      ~~poll watcher or other~~an election official or an election observer, in any primary, special,  
14      or general election.

15      **SECTION 3. AMENDMENT.** Section 16.1-07-10 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17      **16.1-07-10. Care and custody of ballot - Submitted ballot may not be returned.**

18      Upon receipt of an envelope containing the absent voter's ballot, the proper officer  
19 immediately shall attach the application of the absent voter and file the ballot with other  
20 absentee ballots from the same precinct. After submission to the appropriate election officer, a  
21 marked absent voter's ballot may not be returned to the voter for any reason other than to  
22 complete any missing information required on the affidavit on the back of the return envelope.  
23 Before delivering the absentee ballots to a polling place of the proper precinct, the proper officer  
24 shall package the ballots in a manner so the ballots are sealed securely. The package must be  
25 endorsed with the name of the proper voting precinct, the name and official title of the officer,  
26 and the words "This package contains an absent voter's ballot and must be opened only  
27 according to the processing provisions of section 16.1-07-12." The officer shall keep the  
28 package safely in the officer's office until it is delivered by the officer as provided in this chapter.

29      **SECTION 4. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **16.1-10-06.1. Paying for certain election-related activities prohibited.**

2       No person may pay ~~another person~~ any individual for:

- 3       1. Any loss or damage due to attendance at the polls;
- 4       2. Registering;
- 5       3. The expense of transportation to or from the polls; or
- 6       4. Personal services to be performed on the day of a caucus, primary election, or any
- 7             election which tend in any way, directly or indirectly, to affect the result of such caucus
- 8             or election.

9       ~~The provisions of this section do not apply to the hiring of a person whose sole duty it is to act~~  
10      ~~as a challenger and to watch the count of official ballots.~~

11       **SECTION 5. AMENDMENT.** Subsection 2 of section 16.1-11-11 of the North Dakota

12      Century Code is amended and reenacted as follows:

- 13       2. The signatures of qualified electors, the number of which must be determined as
- 14             follows:
  - 15             a. If the office is a county office, the signatures of not less than two percent ~~and not~~
  - 16             ~~more than five percent~~ of the total vote cast for the office at the most recent
  - 17             general election at which the office was voted upon.
  - 18             b. If the office is a county office and multiple candidates were elected to the office at
  - 19             the preceding general election at which the office was voted upon, the signatures
  - 20             of not less than two percent ~~and not more than five percent~~ of the votes cast for
  - 21             all candidates divided by the number of candidates that were to be elected to that
  - 22             office.
  - 23             c. If the office is a county office and no candidate was elected or no votes were cast
  - 24             for the office at any general election, the number of signers equal to the
  - 25             percentage as provided in paragraph 1 applied to the total average vote cast for
  - 26             the offices of sheriff and county auditor at the most recent general election at
  - 27             which those officers were elected in the petitioner's county. This average must be
  - 28             determined by dividing by two the total vote cast for those offices.
  - 29             d. In no case may more than three hundred signatures be required.

30       **SECTION 6. AMENDMENT.** Section 16.1-11.1-05 of the North Dakota Century Code is

31      amended and reenacted as follows:

1       **16.1-11.1-05. Replacement ballots.**

2       An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not  
3 received by the elector. The elector seeking a replacement ballot shall make the elector's  
4 request of the county auditor or appropriate election officer no later than four p.m. on the day  
5 before the election. After submission to the appropriate election officer, a voter's marked mail  
6 ballot may not be returned to the voter for any reason other than to complete any missing  
7 information required on the affidavit on the back of the return envelope.

8       **SECTION 7. AMENDMENT.** Section 16.1-12-02.2 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10       **16.1-12-02.2. Counting of write-in votes - Certificate of candidacy by write-in**  
11 **candidates.**

- 12       1. An election board or canvassing board may not count or be required to officially report  
13 any write-in vote for any:
- 14       a. Individual who is required to file a certificate of write-in candidacy under this  
15 section but who has not filed a certificate of candidacy and been certified as a  
16 write-in candidate.
  - 17       b. Fictitious person or individual clearly not eligible to qualify for the office for which  
18 the vote was cast.
  - 19       c. Statement concerning the candidates.
  - 20       d. Name written or printed by the voter for an office that did not also include the  
21 darkening of the oval next to the write-in line, except that a write-in candidate for  
22 a nonfederal office may make a timely written demand to a county canvassing  
23 board to identify and preserve any write-in vote cast for the office sought by the  
24 write-in candidate for canvass by the board. The candidate shall deliver the  
25 demand to the county auditor and a copy to the county recorder no later than  
26 thirty-six hours before the time the county canvassing board is scheduled to  
27 meet. A demand only may be made if the unofficial election results maintained by  
28 the county auditor demonstrate that the write-in candidate's known vote total is  
29 within the pertinent percentage limits provided in subsection 1 or 2 of section  
30 16.1-16-01 and a statement to that effect is included in the demand. After delivery  
31 of the ballots as provided by section 16.1-15-08, the canvassing board shall

1 review the ballots to identify any ballot that contains a write-in vote. The county  
2 canvassing board shall tally and canvass any write-in vote in the same manner  
3 as lawful or qualifying write-in votes if the canvassing board is able to clearly  
4 ascertain the intent of the voter from examining the ballot because the write-in  
5 candidate's name has been written on the ballot opposite the office to be voted  
6 for or because of any other cogent evidence of intent.

7 e. Write-in votes which constitute five percent or less of the votes cast by the voters  
8 for the candidate receiving the most votes for that office, except in the case of a  
9 primary election in which enough votes were cast as write-in votes to qualify a  
10 name for the general election ballot. This percentage is to be calculated based on  
11 the total number of write-in votes tabulated by the voting equipment in the  
12 precincts of the county in which that office was on the ballot.

13 f. Candidate receiving fewer than three write-in votes unless the number of votes  
14 received qualifies the candidate to be nominated or elected.

15 2. Write-in votes that do not need to be individually canvassed based on the  
16 requirements of this subsection 1 must be listed on the official canvass report as  
17 "scattered write-ins".

18 ~~2.3.~~ An individual who intends to be a write-in candidate for president of the United States  
19 or for statewide or judicial district office at any election shall file a certificate of write-in  
20 candidacy with the secretary of state by four p.m. on the twenty-first day before the  
21 election. The certificate must contain the name and address of the candidate and be  
22 signed by the candidate. Before the thirteenth day before the election, the secretary of  
23 state shall certify the names of the candidates to each county auditor as write-in  
24 candidates.

25 ~~3.4.~~ An individual who intends to be a write-in candidate at the general election for  
26 president of the United States shall file a certificate of write-in candidacy with the  
27 secretary of state by four p.m. on the twenty-first day before the general election. The  
28 certificate must contain the names and addresses of the candidates for presidential  
29 electors for that presidential candidate and a certification of acceptance signed by  
30 each candidate for elector. The candidate shall sign the certificate. The certificate may  
31 also include the name and address of a candidate for vice president of the United

1 States and a certification of acceptance signed by that candidate. The secretary of  
2 state shall prescribe the form of the certificate of write-in candidacy and the  
3 certification of acceptance. Before the thirteenth day before the election, the secretary  
4 of state shall certify the names of the presidential candidates and the presidential  
5 electors to each county auditor as write-in candidates.

6 4-5. An individual who intends to be a write-in candidate for any legislative district office  
7 shall file a certificate of write-in candidacy with the secretary of state. The certificate  
8 must contain the name, address, and signature of the candidate. Certificates must be  
9 filed by four p.m. on the fourth day before the election. When the candidate files a  
10 certificate, the candidate also shall file the contribution statement provided for under  
11 section 16.1-08.1-02 complete through the day of the filing of the certificate.

12 5-6. A certificate under this section is not required when:

- 13 a. No names will appear on the ballot for an office;  
14 b. The number of candidates appearing on the ballot for an office is less than the  
15 number to be elected; or  
16 c. The number of candidates appearing on the ballot for a party office is less than  
17 the number of nominations a party is entitled to make.

18 6-7. An individual required to file a certificate of write-in candidacy may not seek more than  
19 one office appearing on the primary and general election ballots.

20 **SECTION 8. AMENDMENT.** Section 16.1-13-23 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **16.1-13-23. Preparation of ballot by elector - Depositing - Second-chance voting.**

23 Upon receipt of a ballot within the provided secrecy sleeve, the elector, forthwith and  
24 without leaving the polling place, shall retire alone to one of the voting booths or compartments  
25 to prepare the elector's ballot by darkening the oval opposite the name of each ~~person~~individual  
26 for whom the elector wishes to vote. In the case of a ballot containing a constitutional  
27 amendment, an initiated or referred measure, or any other question to be submitted to a vote of  
28 the people, the elector shall darken the oval opposite the word or words expressing the elector's  
29 wish. After preparing the ballot, the elector shall place the ballot back in the provided secrecy  
30 sleeve so it is concealed and so the endorsement of the inspector or election judge may be  
31 seen. The elector then shall deposit the ballot in the optical scanning device and wait to

1 determine if the ballot is deposited into the ballot box or if the optical scanning device has  
2 indicated a possibility for a second-chance voting condition. If a second-chance voting condition  
3 is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot  
4 must be cast as is and may not be returned to the voter even if errors exist causing certain  
5 votes not to be counted.

6 **SECTION 9. AMENDMENT.** Section 16.1-13-32 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **16.1-13-32. Securing new ballot upon spoiling of others.**

9 If any elector spoils a ballot before casting the ballot in the ballot box, the elector may obtain  
10 others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot.  
11 Each paper ballot returned must be canceled immediately and, together with those not  
12 distributed to the electors, must be preserved and secured in sealed packages and returned to  
13 the county recorder.

14 **SECTION 10. AMENDMENT.** Section 61-24-03.1 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **61-24-03.1. Filling vacancy of director on general election ballot.**

17 Whenever a vacancy exists on a general election no-party ballot for any directorship of the  
18 Garrison Diversion Conservancy District, the vacancy may be filled by filing with the county  
19 auditor at least ~~sixty days prior to the general elections~~ sixty-four days before the day of the  
20 election and not later than four p.m. of that day a petition substantially in the form provided in  
21 section 61-24-03, stating that the petitioner desires to become a candidate for election to the  
22 office of director. This petition must contain the signatures of not less than fifty qualified electors  
23 of the county, unless there were at least fifty write-in or sticker votes for the petitioner cast in the  
24 no-party primary election for the office.

25 A vacancy in the no-party ballot is deemed to exist when no candidate is nominated at the  
26 primary election or when a candidate nominated at the primary dies, resigns, or otherwise  
27 becomes disqualified to have that person's name printed on the ballot at the general election.

28 **SECTION 11. AMENDMENT.** Section 61-24.5-07 of the North Dakota Century Code is  
29 amended and reenacted as follows:

