

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2151

Introduced by

Senators W. Stenehjem, Andrist, Klein

Representatives DeKrey, Delmore, Kretschmar

1 A BILL for an Act to amend and reenact sections 16.1-07-01, 16.1-07-05, 16.1-07-06, and
2 16.1-07-08 of the North Dakota Century Code, relating to an elector's eligibility to vote by
3 absentee ballot; and to repeal section 16.1-07-02 of the North Dakota Century Code, relating to
4 voting by absentee ballot.

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

6 **SECTION 1. AMENDMENT.** Section 16.1-07-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **16.1-07-01. Absent voter - Who may vote.**

9 1. Any qualified elector of this state, including an individual who, ~~at any general,~~
10 ~~special, or primary state election, at any county election, or at any city or school~~
11 ~~district election, is absent from the city, township, or consolidated voting precinct in~~
12 ~~which he is an elector,~~ is in the armed forces of the United States, is in the
13 merchant marine of the United States, ~~is physically disabled,~~ or is a United States
14 citizen living outside the United States who resided in this state immediately prior
15 to ~~his~~ the individual's departure from the United States, may vote an absent voter's
16 ballot at ~~that~~ any general, special, or primary state election, any county election, or
17 any city or school district election.

18 2. A qualified elector who is a citizen of the United States and lives outside the United
19 States may vote absentee in this state pursuant to this chapter if ~~he~~ the individual:

- 20 a. Does not maintain a domicile;
- 21 b. Is not registered to vote;
- 22 c. Is not voting in any other state, territory, or possession of the United States;
- 23 and

- 1 d. Possesses a valid passport or card of identity and registration issued under
2 the authority of the secretary of state of the United States.
3 Such an elector may vote only in federal elections, which means any election held
4 solely or in part for the purpose of electing or nominating any candidate for the
5 office of president, vice president, presidential elector, member of the United
6 States senate, or member of the United States house of representatives.
7 3. An elector who votes by absentee ballot may not vote in person at the same
8 election.

9 **SECTION 2. AMENDMENT.** Section 16.1-07-05 of the 1995 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **16.1-07-05. Time for applying for ballot.** At any time in an election year, any
12 qualified elector ~~expecting to be absent on election day as provided in section 16.1-07-04~~ may
13 apply to the county auditor, the auditor or clerk of the city, or the business manager of the
14 school district, as the case may be, by facsimile or otherwise, for an official ballot to be voted at
15 that election. A voter may obtain an application form for an absent voter's ballot for a general,
16 special, primary, or county election from either the county auditor or a city auditor. The
17 application form, for a member of the United States armed forces or the United States
18 merchant marine or for a qualified elector living outside the United States, must include a space
19 for the applicant to indicate whether the application is for all statewide elections in the calendar
20 year or only for the election that is immediately after the date of the application. An applicant
21 who is a member of the United States armed forces or the United States merchant marine or is
22 a qualified elector living outside the United States, may apply for and vote by facsimile if
23 otherwise qualified to apply for and vote by absentee ballot. An auditor, clerk, or business
24 manager may send and receive facsimile absentee ballot applications and facsimile absentee
25 ballots to ~~these electors~~ any individual eligible to apply for and vote by facsimile under this
26 section. No auditor or clerk may issue ballots for absentee voters on the day of the election.

27 **SECTION 3. AMENDMENT.** Section 16.1-07-06 of the 1995 Supplement to the North
28 Dakota Century Code is amended and reenacted as follows:

29 **16.1-07-06. Application form.**

- 1 1. Application for an absent voter's ballot must be made on a blank furnished by the
2 proper officer of the county, city, or school district in which the applicant is an
3 elector, or on any blank containing the following information:
 - 4 a. The applicant's name.
 - 5 b. The applicant's voting address.
 - 6 c. The applicant's mailing address.
 - 7 d. The applicant's current home telephone number.
 - 8 e. The election for which the ballot is being requested.
 - 9 f. ~~The applicant's reason for voting absentee as specified in section 16.1-07-01.~~
 - 10 g. The date of the request.
 - 11 h. g. An affirmation that the applicant has resided in the precinct for at least thirty
12 days.
 - 13 i. h. The applicant's signature.
- 14 2. A qualified elector absent from the state is not required to file an application for an
15 absent voter's ballot for any statewide election if either of the following apply:
 - 16 a. The elector is a member, or spouse or dependent of a member, of the United
17 States armed forces or merchant marine.
 - 18 b. The elector is a United States citizen living outside the United States.If the qualified elector furnishes the county auditor with a current mailing address
19 and the elector's local residence or precinct, the county auditor shall mail to the
20 qualified elector a ballot with a return envelope and instructions for voting for any
21 statewide election in that calendar year.
22

23 **SECTION 4. AMENDMENT.** Section 16.1-07-08 of the 1995 Supplement to the North
24 Dakota Century Code is amended and reenacted as follows:

25 **16.1-07-08. Delivering ballots - Envelope accompanying - Statement on envelope**
26 **- Inability of elector to sign name.**

- 27 1. Upon receipt of an application for an official ballot properly filled out and duly
28 signed, or as soon thereafter as the official ballot for the precinct in which the
29 applicant resides has been prepared, the county auditor, city auditor, or business
30 manager of the school district, as the case may be, shall send to the absent voter
31 by mail, at the expense of the political subdivision conducting the election, one

1 official ballot, or personally deliver the ballot to the applicant or the applicant's
2 agent, which agent may not, at that time, be a candidate for any office to be voted
3 upon by the absent voter. The agent shall sign the agent's name before receiving
4 the ballot and deposit with the auditor or business manager of the school district,
5 as the case may be, authorization in writing from the applicant to receive the ballot
6 or according to requirements set forth for signature by mark. No person may
7 receive compensation, including money, goods, or services, for acting as an agent
8 for an elector, nor may a person act as an agent for more than four electors in any
9 one election. A voter voting by absentee ballot may not require the political
10 subdivision providing the ballot to bear the expense of the return postage for an
11 absentee ballot.

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

17 State of _____)

18) ss.

19 County of _____)

20 I, _____, under penalty of possible criminal prosecution for making a false
21 statement, do solemnly swear that I am a resident of the township of _____, or
22 of the _____ precinct of the _____ ward in the city of _____, residing at
23 _____ in said county, county of _____ and state of North Dakota, and
24 entitled to vote in such precinct at the next election; that I expect to be absent from
25 the precinct of my residence on the day of the election or that by reason of
26 physical disability I am unable to attend at the polling place for the election, and
27 that I will have no opportunity to vote in person on that day.

28 _____

29 Precinct _____

30 Name _____

31 Residential Address _____

1 City _____ ND Zip Code _____

2 Under penalty of possible criminal prosecution for making a false
3 statement, I swear that the above residential address is my address for
4 voting purposes, that I have resided in my precinct for at least thirty
5 days, and this is the only ballot I will cast in this election.

6 Applicant's Signature _____

7 Date _____

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

13 **SECTION 5. REPEAL.** Section 16.1-07-02 of the North Dakota Century Code is
14 repealed.