

**HOUSE BILL NO. 1332**

Introduced by

Representatives Boehning, Grande, Nathe, Streyle, Thoreson, Wieland

Senator Berry

1 A BILL ~~for an Act to amend and reenact subsection 1 of section 16.1-01-04 of the North Dakota~~  
2 ~~Century Code, relating to residency and the eligibility to vote.~~ for an Act to amend and reenact  
3 section 16.1-02-05, subsection 9 of section 16.1-02-12, and sections 16.1-02-13, 16.1-05-04,  
4 16.1-05-07, 16.1-07-06, and 39-06-03.1 of the North Dakota Century Code, relating to eligibility  
5 to vote; and to repeal sections 16.1-05-06 and 58-04-09 of the North Dakota Century Code.  
6 relating to eligibility to vote.

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

8 ~~SECTION 1. AMENDMENT. Subsection 1 of section 16.1-01-04 of the North Dakota~~  
9 ~~Century Code is amended and reenacted as follows:—~~

10 ~~1.—Every citizen of the United States who is eighteen years or older; a resident of this~~  
11 ~~state; and has resided in the precinct at least thirty days next preceding the deadline~~  
12 ~~established for the distribution of absentee ballots for any election, except as~~  
13 ~~otherwise provided in regard to residency in chapter 16.1-14, is a qualified elector.~~

14 **SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **16.1-02-05. Entry of new voters into the central voter file - Query of the central voter**  
17 **file for double voting -Challenges- Postelection verification.**

18 1. Within forty-five days following an election, the county auditor shall enter the name  
19 and required information of each individual who voted at the last election who is not  
20 already contained in the central voter file and update any required information  
21 requested and obtained at the last election for any individual contained in the central  
22 voter file.  
23 2. The secretary of state, with the assistance of the county auditors, within eighty-five  
24 days following an election, shall query the central voter file to determine if any

1 individual voted more than once during the preceding election. The secretary of state  
2 shall immediately notify the county auditor and state's attorney in each affected county  
3 for further investigation.

- 4 3. Upon return of any nonforwardable mail from an election official, the county auditor  
5 shall ascertain the name and address of that individual. If the individual is no longer at  
6 the address recorded in the central voter file, the county auditor shall transfer the voter  
7 to the correct precinct in the central voter file or notify the county of the voter's new  
8 residence so the voter record can be transferred to the correct county. If a notice  
9 mailed at least sixty days after the return of the first nonforwardable mail is also  
10 returned by the postal service, the county auditor shall designate the individual as  
11 "inactive" in the central voter file.

12 ~~4. Within forty five days after an election, the county auditor shall send a notice to each~~  
13 ~~individual who was challenged on election day according to section 16.1-05-06. If a~~  
14 ~~notice is returned as not deliverable, the county auditor shall attempt to determine the~~  
15 ~~reason for the return. A county auditor who does not receive or obtain satisfactory~~  
16 ~~proof of an individual's eligibility to vote shall notify immediately the state's attorney to~~  
17 ~~conduct an investigation of the individual's eligibility to vote in that election.~~

18 **SECTION 2. AMENDMENT.** Subsection 9 of section 16.1-02-12 of the North Dakota  
19 Century Code is amended and reenacted as follows:

- 20 9. The individual's driver's license or nondriver photo identification card number ~~and state~~  
21 ~~of any state issued identification regardless of the state in which the identification was~~  
22 ~~issued, if available~~ issued by the department of transportation.

23 **SECTION 3. AMENDMENT.** Section 16.1-02-13 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **16.1-02-13. Information contained in pollbooks generated from the central voter file.**

26 The county auditor shall generate a pollbook for each precinct in the county from the central  
27 voter file by the day before an election. With the exception of a record designated "secured  
28 active" and the voter's birth date and driver's license or nondriver photo identification card  
29 number ~~of any state issued identification regardless of the state in which the identification was~~  
30 ~~issued~~ by the department of transportation, which are exempt records, the precinct pollbooks  
31 are open records under section 44-04-18. The secretary of state shall prescribe procedures for

1 generating pollbooks and for transporting the pollbooks to the election judges for use on  
2 election day. Pollbooks generated from the central voter file must contain the following  
3 information for each individual contained therein:

- 4 1. The complete legal name of the individual.
- 5 2. The complete residential address of the individual.
- 6 3. The complete mailing address of the individual, if different from the individual's  
7 residential address.
- 8 4. The unique identifier generated and assigned to the individual.
- 9 5. The county, legislative district, city or township, school district, county commissioner  
10 district, if applicable, precinct name, and precinct number in which the individual  
11 resides. A ballot-style code identifying this information may be used in place of the  
12 information required by this subsection.
- 13 6. Any other information requested of and obtained from the individual deemed  
14 necessary by the secretary of state for the proper administration of the pollbook.

15 **SECTION 4. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **16.1-05-04. Duties of the members of the election board during polling hours.**

- 18 1. The election inspector shall supervise the conduct of the election to ensure all election  
19 officials are properly performing their duties at the polling place. The election inspector  
20 shall assign duties so as to equally and fairly include both parties represented on the  
21 election board.
- 22 2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out  
23 the ministerial duties assigned by the election inspector.
- 24 3. The election inspector shall assign the poll clerks to perform the function of  
25 maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The  
26 pollbook must contain the name and address of each individual voting at the precinct  
27 and must be arranged in the form and manner prescribed by the secretary of state.
- 28 4. ~~The members of the election board shall challenge the right of anyone to vote whom  
29 they know or have reason to believe is not a qualified elector by requiring the elector  
30 to complete and sign a voter's affidavit.~~

1 ~~5.~~ Each member of the election board shall remain on the premises of the polling place  
2 during the time the polls are open to prevent the occurrence of fraud, deceit, or other  
3 irregularity in the conduct of the election.

4 ~~6.5.~~ All members of the election board shall distribute ballots and other election materials  
5 to electors. An election judge from each party represented on the election board shall  
6 give any assistance requested by electors in marking ballots or operating electronic  
7 voting system devices.

8 ~~7.6.~~ Each member of the election board shall maintain order in the polling place.

9 **SECTION 5. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to**  
12 **request, correct, and update incorrect information contained in the pollbook.**

- 13 1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll  
14 clerks shall ~~request~~require the individual to show identification, which includes the  
15 individual's residential address and date of birth. The identification may include:
- 16 a. ~~An~~A driver's license or nondriver photo identification card issued by the  
17 department of transportation or other official form of identification issued by the  
18 state;
  - 19 b. An official form of identification issued by a tribal government;
  - 20 c. A form of identification prescribed by the secretary of state, if the individual does  
21 not possess an official form of identification provided for under subdivision a or b;  
22 or
  - 23 d. A combination of any of the forms of identification under subdivisions a through c.
- 24 2. ~~If an individual offering to vote does not have or refuses to show an appropriate form~~  
25 ~~of identification, the individual may be allowed to vote without being challenged~~  
26 ~~according to section 16.1-05-06 if the individual provides to the election board the~~  
27 ~~individual's date of birth and if a member of the election board or a clerk knows the~~  
28 ~~individual and can personally vouch that the individual is a qualified elector of the~~  
29 ~~precinct.~~
- 30 ~~3.~~ ~~If an individual offering to vote does not meet either of the options set forth in~~  
31 ~~subsection 1 or 2, the election board shall challenge the individual's right to vote and~~

~~the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~

- ~~4.~~ a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
- b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
- c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.

~~5.3.~~ Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

**SECTION 6. AMENDMENT.** Section 16.1-07-06 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Application for an absent voter's ballot must be made on a form, prescribed by the secretary of state, to be furnished by the proper officer of the county, city, or school district in which the applicant is an elector, on any form, approved by the secretary of state, or any blank containing the following information:
  - a. The applicant's name.
  - b. The applicant's current or most recent North Dakota residential address.
  - c. The applicant's mailing address.
  - d. The applicant's current contact telephone number.
  - e. The election for which the ballot is being requested.
  - f. The date of the request.
  - g. An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election.

- 1 h. The applicant's signature.
- 2 i. A space for the voter to indicate the voter's status as a citizen living outside the
- 3 United States, a uniformed service member living away from the voter's North
- 4 Dakota residence, or a family member of the uniformed service member living
- 5 away from the voter's North Dakota residence.
- 6 j. The applicant's birth date and year.
- 7 k. The applicant's motor vehicle operator's license or nondriver identification
- 8 number, ~~if available~~.

9 If the applicant is unable to sign the applicant's name, the applicant shall mark (X) or  
10 use the applicant's signature stamp on the application in the presence of a  
11 disinterested individual. The disinterested individual shall print the name of the  
12 individual marking the X or using the signature stamp below the X or signature stamp  
13 and shall sign the disinterested individual's own name following the printed name  
14 together with the notation "witness to the mark".

- 15 2. The application for a qualified elector serving on active duty as a uniformed service  
16 member or a family member who is a qualified elector and stationed at a location other  
17 than that individual's voting residential address must include the following additional  
18 information if the voter desires to vote by facsimile or electronic mail:
  - 19 a. Facsimile telephone number; or
  - 20 b. Electronic mail address.
- 21 3. The application for a qualified elector living outside the United States must include a  
22 facsimile telephone number or electronic mail address if the voter desires to vote by  
23 facsimile or electronic mail.

24 4. Except for the applicant's date of birth and motor vehicle driver's license or nondriver  
25 photo identification card number, the application is an open record under section  
26 44-04-18.

27 **SECTION 7. AMENDMENT.** Section 39-06-03.1 of the North Dakota Century Code is  
28 amended and reenacted as follows:

1           **39-06-03.1. Nondriver photo identification card issued by director - Release of**  
2 **information - Penalty - Public awareness.**

- 3           1. The director shall issue a nondriver color photo identification card to any North Dakota  
4 resident who fulfills the requirements of this section. An application for an identification  
5 card must be made on a form furnished by the director. Within thirty days from receipt  
6 of a complete application that includes the applicant's social security number, unless  
7 the applicant is a nonimmigrant who is not eligible for a social security number, the  
8 director shall determine whether to issue and, if appropriate, issue a nondriver photo  
9 identification card to an applicant. If the person is under the age of eighteen or at least  
10 the age of eighteen and under the age of twenty-one, the photo must be against the  
11 same color background required on a motor vehicle operator's license for an operator  
12 of that age. Subject to subsection 1 of section 39-06-19, identification cards expire  
13 eight years from the date of issue and may be renewed. The application must contain  
14 such other information as the director may require to improve identity security. The  
15 director may require an applicant for an identification card to provide a social security  
16 card and proof of residence address.
- 17           2. To confirm the identity, date of birth, and legal presence of the applicant, the director or  
18 examining officer shall require satisfactory evidence be provided by the applicant.  
19 Satisfactory evidence includes a certified copy of the applicant's birth certificate or  
20 other evidence reasonably calculated to permit the determination of the date of birth,  
21 identification, and legal presence of the applicant by the director or examining officer.
- 22           3. ~~The fee is eight dollars. Fees collected pursuant to this section must be paid monthly~~  
23 ~~into the highway fund in the state treasury.~~Except as provided in subsection 9, the  
24 director may not charge a fee to provide a nondriver photo identification card to an  
25 eligible applicant.
- 26           4. Any information obtained by the director from an applicant for the issuance, renewal,  
27 or replacement of an identification card issuable pursuant to this chapter may only be  
28 released in accordance with the provisions of section 39-16-03.
- 29           5. It is a class B misdemeanor for any person, except the director or the director's  
30 authorized agent, to print or otherwise produce or reproduce cards or their

1 components, which may be utilized as identification cards issued pursuant to this  
2 section.

3 6. The director may advertise the availability and the use of the card.

4 7. Identification cards issued pursuant to this section are sufficient identification for all  
5 identification purposes.

6 8. The director shall cancel any card upon determining that the holder is not entitled to  
7 the issuance of the card under the laws of this state, or the holder has failed to give  
8 the required or correct information to the director, or has committed fraud in making  
9 the application, or the fee was in the form of an insufficient or no-account check. Upon  
10 cancellation, the holder shall surrender the card to the director. When a cancellation is  
11 in effect, any law enforcement officer may take custody of the card.

12 9. A duplicate card may be obtained by making an application and paying an eight dollar  
13 fee. For a cardholder who has reached the age of eighteen or twenty-one, a  
14 replacement card may be obtained by making an application and paying an eight  
15 dollar fee.

16 10. The director may not withhold the issuance of a nondriver color photo identification  
17 card without reasonable cause.

18 11. An individual who possesses a driver's license may not obtain a nondriver photo  
19 identification card.

20 **SECTION 8. REPEAL.** Sections 16.1-05-06 and 58-04-09 of the North Dakota Century  
21 Code are repealed.