

HOUSE BILL NO. 1312

Introduced by

Representative Hoverson

1 A BILL for an Act to create and enact section 37-17.1-05.1 of the North Dakota Century Code,
2 relating to limiting the governor's authority regarding elections; to amend and reenact
3 subdivision c of subsection 4 of section 16.1-01-04.1, subsection 3 of section 16.1-04-02,
4 subsection 1 of section 16.1-05-09, sections 16.1-07-01 and 16.1-07-05, subsection 1 of
5 section 16.1-07-06, and sections 16.1-07-12 and 16.1-15-04 of the North Dakota Century Code,
6 relating to eliminating early mail ballot elections and in-person voting and limiting voters eligible
7 to cast absentee ballots; to repeal section 16.1-07-15 and chapter 16.1-11.1 of the North Dakota
8 Century Code, relating to early voting precincts and mail ballot elections; and to provide a
9 penalty.

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

11 **SECTION 1. AMENDMENT.** Subdivision c of subsection 4 of section 16.1-01-04.1 of the
12 North Dakota Century Code is amended and reenacted as follows:

13 c. For an individual living with a disability that prevents the individual from traveling
14 away from the individual's home, the signature on an absentee ~~or mail~~ ballot
15 application from another qualified elector who, by signing, certifies the applicant
16 is a qualified elector.

17 **SECTION 2. AMENDMENT.** Subsection 3 of section 16.1-04-02 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 3. May utilize vote centers that contain all of the precincts in a county so that any
20 qualified elector of the county may choose to cast a ballot in that polling place.
21 ~~Qualified electors may vote early at early voting precincts, by absentee ballot, A~~
22 qualified elector may vote at a polling place of their the qualified elector's residential
23 precinct, or, at a county vote center; or, if the qualified elector meets the requirements
24 of section 16.1-07-01, by absentee ballot. Vote center polling places must serve as a

1 designated polling place for at least one precinct in the county in addition to serving as
2 the site where any county voter may cast a ballot.

3 **SECTION 3. AMENDMENT.** Subsection 1 of section 16.1-05-09 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 1. Election observers must be allowed uniform and nondiscriminatory access to all
6 stages of the election process, including the certification of election technologies, ~~early-~~
7 ~~voting,~~ absentee voting, voter appeals, vote tabulation, and recounts.

8 **SECTION 4. AMENDMENT.** Section 16.1-07-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-07-01. ~~Absent voter~~Voting by absentee ballot.**

11 ~~Any~~

12 1. ~~A~~ A qualified elector of this state may vote an ~~absent voter's~~absentee ballot at any
13 general, special, or primary state election, any county election, or any city or school
14 district election, provided the elector is:

15 a. A member of the armed forces, national guard, armed forces reserve component,
16 or merchant marines;

17 b. An individual serving with the American red cross or united service organization
18 who is attached to and serving with the armed forces outside the individual's
19 country of residence;

20 c. A United States citizen residing, working, or attending school in another country;

21 d. An individual living with a physical disability;

22 e. An individual who will be unable to vote on election day due to the requirements
23 of the individual's employment;

24 f. An individual who is required to serve as a juror on election day;

25 g. An individual admitted to the hospital within four days before election day;

26 h. An individual with a relative who dies or has a funeral within three days before
27 election day;

28 i. An individual confined to a jail or pre-trial facility;

29 j. An individual required to care for another individual who is sick or living with a
30 disability;

31 k. A poll worker or an election official;

- 1 l. An individual who is sixty-five years of age or older;
2 m. For a presidential primary election, an individual who chooses not to vote on a
3 Saturday;
4 n. An individual who is prevented from voting due to a declared emergency or
5 disaster; or
6 o. A spouse or dependent of an individual in subdivisions a, b, or c, if the spouse or
7 dependent resides with the individual.
8 2. An elector who votes by absentee ballot may not vote in person at the same election.

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

11 **16.1-07-05. Time for applying for ballot - Emergency situations - Sufficient time for**
12 **application and ballot return.**

- 13 1. At any time in an election year, ~~any~~ a qualified elector who satisfies the requirements of
14 section 16.1-17-01 may apply to the county auditor, the auditor or clerk of the city, or
15 the business manager of the school district, as the case may be, by personal delivery,
16 facsimile, electronic mail or otherwise, for an official ballot to be voted at that election.
17 A voter eligible to vote by absentee ballot may obtain an application form approved by
18 the secretary of state, for an absent voter's ballot for a general, special, primary,
19 county, city, or school election from the secretary of state; or a county or city auditor; ~~a~~
20 ~~candidate, a political party, or a political committee.~~ The application form must include
21 a space for the applicant to indicate whether the application is for all statewide
22 elections in the calendar year or only for the election that is immediately after the date
23 of the application.
24 2. ~~No~~ An auditor or clerk may not issue ballots for absentee voters on the day of the
25 election except to individuals prevented from voting in person on the day of the
26 election due to an emergency. An individual requesting an absentee ballot on the day
27 of the election due to an emergency satisfying one of the eligibility requirements in
28 section 16.1-17-01 must do so through an agent as set forth in this chapter. An agent
29 may represent only one individual. The absentee ballot must be returned to the county
30 auditor's office by four p.m. on the day of the election.

1 3. A completed application must be submitted to the appropriate election official in a
2 timely manner so as to allow the applicant to receive, complete, and mail the absent
3 voter's ballot before the day of the election.

4 4. The secretary of state shall adopt rules for the secretary of state, county and city
5 auditors, and election officials to follow to verify whether an individual who submits an
6 application for an absentee voter ballot is eligible to vote by absentee ballot.

7 **SECTION 6. AMENDMENT.** Subsection 1 of section 16.1-07-06 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 1. Application for an absent voter's ~~or mail ballot~~ must be made on a form, prescribed by
10 the secretary of state, to be furnished by the proper officer of the county, city, or school
11 district in which the applicant is an elector, on any form, approved by the secretary of
12 state, or any blank containing the following:
- 13 a. The applicant's name.
 - 14 b. The applicant's current or most recent North Dakota residential address.
 - 15 c. The applicant's mailing address.
 - 16 d. The applicant's current contact telephone number, if available.
 - 17 e. The election for which the ballot is being requested.
 - 18 f. The date of the request.
 - 19 g. An affirmation ~~that~~ the applicant has resided, or will reside, in the precinct for at
20 least thirty days next preceding the election and will be a qualified elector of the
21 precinct.
 - 22 h. The applicant's signature.
 - 23 i. The designation of the individual's status as a citizen of this country and resident
24 of this state living outside the United States, a uniformed service member living
25 away from the individual's North Dakota residence, or an immediate family
26 member of the uniformed service member living away from the individual's North
27 Dakota residence.
 - 28 j. The applicant's date of birth.
 - 29 k. The identification number from one of the applicant's valid forms of identification,
30 a copy of the applicant's long-term care certificate, and, if necessary, a copy of
31 the applicant's supplemental identification under section 16.1-01-04.1.

1 I. An affirmation the applicant meets one of the requirements for obtaining an
2 absentee ballot under section 16.1-07-01.

3 **SECTION 7. AMENDMENT.** Section 16.1-07-12 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.**

6 At any time beginning on the day before election day and the closing of the polls on election
7 day, the election clerks and board members of the relevant polling place first shall compare the
8 signature on the application for an absent voter's ballot with the signature on the voter's affidavit
9 provided for in section 16.1-07-08 to ensure the signatures correspond. If the applicant is then a
10 duly qualified elector of the precinct, meets one of the requirements for voting by absentee
11 ballot under section 16.1-07-01, and has not voted at the election, ~~they~~the election clerk or
12 board member shall open the absent voter's envelope in a manner as not to destroy the affidavit
13 ~~thereon~~on the envelope. ~~They~~The election clerk or board member shall take out the secrecy
14 envelope ~~with~~containing the ballot ~~or ballots contained therein~~ without unfolding the
15 ~~same~~envelope, or permitting the ~~same~~envelope to be opened or examined, and indicate in the
16 pollbook of the election that the elector has voted. The election board members not participating
17 in the comparing of signatures and entering voters into the pollbook shall remove the ballot ~~or~~
18 ~~ballots~~ from the secrecy envelope, unfold and initial the ~~same~~ballot, and deposit the ballot in the
19 proper ballot box for tabulation. The votes from these cast ballots may not be tallied and the
20 tabulation reports may not be generated until the polls have closed on election day. If the
21 affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, ~~or that~~
22 the signatures on the application and affidavit do not correspond, ~~or that~~ the applicant is not
23 then a duly qualified elector of the precinct, or the applicant fails to satisfy the eligibility criteria
24 to vote by absentee ballot, the vote may not be allowed, but without opening the absent voter's
25 envelope, the election inspector or election judge shall mark across the face thereof "rejected
26 as defective" or "rejected as not an elector", as the case may be. These rejected ballots are
27 then turned over to the county canvassing board for final determination of eligibility. The
28 subsequent death of an absentee voter after having voted by absentee ballot does not
29 constitute grounds for rejecting the ballot.

30 **SECTION 8. AMENDMENT.** Section 16.1-15-04 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **16.1-15-04. Canvass report prepared by election board for county auditor.**

2 The election board shall generate at least one canvass report from the electronic voting
3 system. The ballots may not be sealed, nor may the canvass report be signed, by the election
4 board or poll clerk until the counts in the poll clerks' books and in the canvass report shows the
5 same totals for ballots cast.

6 In the case of the absentee ballot precinct as authorized in section 16.1-07-12.1, ~~early~~
7 ~~voting precincts as authorized in section 16.1-07-15, and mail ballot precinct as authorized in~~
8 ~~section 16.1-11.1-06~~, if the work of the election board is completed ~~prior to~~before close of the
9 polls on election day, the election board shall create and sign a statement consisting of a
10 reconciliation of the number of voters recorded in the pollbook and the number of ballots
11 processed through the tabulators. The voting system must be secured in a manner prescribed
12 by the county auditor that will protect the system and ballots from tampering. ~~Prior to~~Before
13 generating the canvass report from one of these three types of precincts, an election judge
14 representing each political party, or two election judges in the case of an election that does not
15 include a political party contest, shall verify ~~that~~ the system and ballots remain secure and the
16 statement created by the election board is still accurate.

17 **SECTION 9.** Section 37-17.1-05.1 of the North Dakota Century Code is created and
18 enacted as follows:

19 **Governor's authority - Elections.**

20 Notwithstanding section 37-17.1-05, the governor may not suspend, amend, or revoke any
21 statute related to the right to vote or conducting elections.

22 **SECTION 10. REPEAL.** Section 16.1-07-15 and chapter 16.1-11.1 of the North Dakota
23 Century Code are repealed.