

**HOUSE BILL NO. 1302**

Introduced by

Representatives Mock, Onstad, Oversen, Schneider

1 A BILL for an Act to create and enact a new section to chapter 16.1-05 and a new section to  
2 chapter 58-04 of the North Dakota Century Code, relating to eligibility to vote; to amend and  
3 reenact section 16.1-02-05, subsection 9 of section 16.1-02-12, and sections 16.1-02-13,  
4 16.1-05-04, 16.1-05-07, and 16.1-07-06 of the North Dakota Century Code, relating to eligibility  
5 to vote; and to provide a penalty.

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

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

9 **16.1-02-05. Entry of new voters into the central voter file - Query of the central voter**  
10 **file for double voting - Challenges - Postelection verification.**

- 11 1. Within forty-five days following an election, the county auditor shall enter the name  
12 and required information of each individual who voted at the last election who is not  
13 already contained in the central voter file and update any required information  
14 requested and obtained at the last election for any individual contained in the central  
15 voter file.
- 16 2. The secretary of state, with the assistance of the county auditors, within eighty-five  
17 days following an election, shall query the central voter file to determine if any  
18 individual voted more than once during the preceding election. The secretary of state  
19 shall immediately notify the county auditor and state's attorney in each affected county  
20 for further investigation.
- 21 3. Upon return of any nonforwardable mail from an election official, the county auditor  
22 shall ascertain the name and address of that individual. If the individual is no longer at  
23 the address recorded in the central voter file, the county auditor shall transfer the voter  
24 to the correct precinct in the central voter file or notify the county of the voter's new

1 residence so the voter record can be transferred to the correct county. If a notice  
2 mailed at least sixty days after the return of the first nonforwardable mail is also  
3 returned by the postal service, the county auditor shall designate the individual as  
4 "inactive" in the central voter file.

5 4. Within forty-five days after an election, the county auditor shall send a notice to each  
6 individual who was challenged on election day as provided under section 16.1-05-06.  
7 If a notice is returned as not deliverable, the county auditor shall attempt to determine  
8 the reason for the return. A county auditor who does not receive or obtain satisfactory  
9 proof of an individual's eligibility to vote shall notify the state's attorney to conduct an  
10 investigation of the individual's eligibility to vote in that election.

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

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

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

18 **16.1-02-13. Information contained in pollbooks generated from the central voter file.**

19 The county auditor shall generate a pollbook for each precinct in the county from the central  
20 voter file by the day before an election. With the exception of a record designated "secured  
21 active" and the voter's birth date and ~~driver's license or nondriver identification card number and~~  
22 state of any state-issued identification regardless of the state in which the identification was  
23 ~~issued by the department of transportation~~, which are exempt records, the precinct pollbooks  
24 are open records under section 44-04-18. The secretary of state shall prescribe procedures for  
25 generating pollbooks and for transporting the pollbooks to the election judges for use on  
26 election day. Pollbooks generated from the central voter file must contain the following  
27 information for each individual contained therein:

- 28 1. The complete legal name of the individual.
- 29 2. The complete residential address of the individual.
- 30 3. The complete mailing address of the individual, if different from the individual's  
31 residential address.

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

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

10       **16.1-05-04. Duties of the members of the election board during polling hours.**

- 11       1.    The election inspector shall supervise the conduct of the election to ensure all election
- 12            officials are properly performing their duties at the polling place. The election inspector
- 13            shall assign duties so as to equally and fairly include both parties represented on the
- 14            election board.
- 15       2.    The election inspector shall assign ministerial duties to poll clerks, who shall carry out
- 16            the ministerial duties assigned by the election inspector.
- 17       3.    The election inspector shall assign the poll clerks to perform the function of
- 18            maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The
- 19            pollbook must contain the name and address of each individual voting at the precinct
- 20            and must be arranged in the form and manner prescribed by the secretary of state.
- 21       4.    A member of the election board shall challenge the right of anyone to vote whom the
- 22            member knows or has reason to believe is not a qualified elector by requiring the
- 23            elector to complete and sign a voter's affidavit.
- 24       5.    Each member of the election board shall remain on the premises of the polling place
- 25            during the time the polls are open to prevent the occurrence of fraud, deceit, or other
- 26            irregularity in the conduct of the election.
- 27       ~~5-6.~~   All members of the election board shall distribute ballots and other election materials
- 28            to electors. An election judge from each party represented on the election board shall
- 29            give any assistance requested by electors in marking ballots or operating electronic
- 30            voting system devices.
- 31       ~~6-7.~~   Each member of the election board shall maintain order in the polling place.

1       **SECTION 5.** A new section to chapter 16.1-05 of the North Dakota Century Code is created  
2 and enacted as follows:

3       **Challenging right to vote - Identification or affidavit required - Penalty for false**  
4 **swearing - Optional poll checkers.**

- 5       1. Three poll challengers appointed by the district chairman of each political party  
6 represented on the election board are entitled to be in attendance at each polling  
7 place. A poll challenger may be replaced at any time during the hours of voting, but no  
8 more than three poll challengers from each political party are entitled to be in  
9 attendance at each polling place at any one time.
- 10       2. A member of the election board may challenge the right of an individual to vote if the  
11 election board member has knowledge or has reason to believe the individual is not a  
12 qualified elector. A poll challenger may request members of the election board to  
13 challenge the right of an individual to vote if the poll challenger has knowledge or has  
14 reason to believe the individual is not a qualified elector of the precinct. A challenge  
15 may be based upon any one of the following:
- 16       a. The individual offering to vote does not meet the age or citizenship requirements.  
17       b. The individual offering to vote has never voted in the precinct before, the name of  
18 the individual offering to vote does not appear in the pollbook generated from the  
19 central voter file, and the individual fails to provide reasonable evidence of  
20 residency in the precinct.
- 21       c. Except as provided in section 16.1-01-05, the individual offering to vote physically  
22 resides outside the precinct.
- 23       d. The individual offering to vote does not meet the residency requirements  
24 provided in section 16.1-01-04.
- 25       e. The individual offering to vote fails or refuses to provide an appropriate form of  
26 identification as requested under subsection 3.
- 27       3. If after an election board member has requested that the individual offering to vote  
28 provide an appropriate form of identification to address any of the voting eligibility  
29 concerns listed in subsection 2 and the identification is not provided or does not  
30 adequately confirm the eligibility of the challenged individual, the challenged individual  
31 may not vote unless the challenged individual executes an affidavit, acknowledged

- 1           before an election board member, that the challenged individual is a legally qualified  
2           elector of the precinct.
- 3       4. The affidavit must include:
- 4           a. The name of the affiant.  
5           b. The address of the affiant.  
6           c. The birth date of the affiant.  
7           d. The contact telephone number of the affiant.  
8           e. The address of the affiant at the time the affiant last voted.  
9           f. The previous last name of the affiant if it was different when the affiant last voted.  
10          g. The identification number and state of any state-issued identification regardless  
11           of the state in which the identification was issued, if available.  
12          h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and  
13           the rules for determining residence.  
14          i. Notice of the penalty for making a false affidavit and that the county auditor is  
15           required to verify the affidavit.  
16          j. A notice indicating that the affidavit is not an open record, but that information  
17           identifying who voted after executing an affidavit is an open record as part of the  
18           pollbook, except for any individual listed as secured active in the central voter file  
19           under section 16.1-02-13.  
20          k. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
- 21       5. Written notice of the penalty for making a false affidavit and that the county auditor is  
22           required to verify the affidavits must be prominently displayed at the polling place in a  
23           form prescribed by the secretary of state. An individual who falsely swears in order to  
24           vote is guilty of a class A misdemeanor and must be punished under chapter 16.1-01.
- 25       6. The district chairman of each political party represented on the election board may  
26           appoint poll checkers to a polling place, provided the poll checkers do not interfere  
27           with the election process or with the members of the election board in the performance  
28           of their duties. A poll challenger must be a qualified elector of the district in which the  
29           challenger is assigned.
- 30       7. A poll challenger or checker may not be a member of the election board.

1       8. The district chairman shall notify the county auditor of each county contained in the  
2       legislative district one day before the day of the election of the name of each individual  
3       the district chairman has appointed to serve as a poll challenger or poll checker in the  
4       precincts in the legislative district.

5       **SECTION 6. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is  
6       amended and reenacted as follows:

7       **16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to**  
8       **request, correct, and update incorrect information contained in the pollbook.**

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

1 incorrect or incomplete information about an individual required to be included in  
2 the pollbook generated from the central voter file.

3 b. If the individual's name is contained in the pollbook generated from the central  
4 voter file, the poll clerks shall verify the individual's residential address and  
5 mailing address, if different from the individual's residential address.

6 c. If the individual's name is not contained in the pollbook generated from the  
7 central voter file but the individual is determined eligible to vote, the poll clerks  
8 shall record the individual's name in the pollbook. The poll clerks shall request  
9 and obtain any additional information for the individual required to be included in  
10 the pollbook.

11 ~~3-5.~~ Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct  
12 to the proper precinct and voting location.

13 **SECTION 7. AMENDMENT.** Section 16.1-07-06 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **16.1-07-06. Application form.**

16 1. ~~Application~~An application for an absent voter's ballot must be made on a form,  
17 prescribed by the secretary of state, to be furnished by the proper officer of the county,  
18 city, or school district in which the applicant is an elector, on any form, approved by the  
19 secretary of state, or any blank containing the following:

20 a. The applicant's name.

21 b. The applicant's current or most recent North Dakota residential address.

22 c. The applicant's mailing address.

23 d. The applicant's current contact telephone number.

24 e. The election for which the ballot is being requested.

25 f. The date of the request.

26 g. An affirmation that the applicant has resided, or will reside, in the precinct for at  
27 least thirty days next preceding the election and will be a qualified elector of the  
28 precinct.

29 h. The applicant's signature.

30 i. A space for the voter to indicate the voter's status as a citizen living outside the  
31 United States, a uniformed service member living away from the voter's North

1                   Dakota residence, or a family member of the uniformed service member living  
2                   away from the voter's North Dakota residence.

3                   j.    The applicant's birth date and year.

4                   k.    The applicant's motor vehicle operator's license or nondriver identification  
5                   number or tribal identification number ~~or a copy of the voter's alternate form of~~  
6                   ~~identification approved by the secretary of state under subdivision c of~~  
7                   ~~subsection 1 of section 16.1-05-07, if available.~~

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

14                  3.    ~~If the applicant does not possess an approved form of identification as provided for~~  
15                  ~~under subsection 1 of section 16.1-05-07, the application also must be signed by~~  
16                  ~~another qualified elector who, by signing, certifies that the applicant is a qualified~~  
17                  ~~elector. The secretary of state shall prescribe the form of the certification required~~  
18                  ~~under this subsection.~~

19                  4.    The application for a qualified elector serving on active duty as a uniformed service  
20                  member or a family member who is a qualified elector and stationed at a location other  
21                  than that individual's voting residential address must include the following additional  
22                  information if the voter desires to vote by facsimile or electronic mail:

23                   a.    Facsimile telephone number; or

24                   b.    Electronic mail address.

25                  ~~5.4.~~    The application for a qualified elector living outside the United States must include a  
26                  facsimile telephone number or electronic mail address if the voter desires to vote by  
27                  facsimile or electronic mail.

28                  6.    ~~Except for the applicant's date of birth and motor vehicle driver's license or nondriver~~  
29                  ~~identification card number, the application is an open record under section 44-04-18.~~

30                  **SECTION 8.** A new section to chapter 58-04 of the North Dakota Century Code is created  
31                  and enacted as follows:



1        **Challenge to voter - Duty of judges.**

2        If an individual offering to vote at any election or upon any question arising at a township  
3 meeting is challenged as unqualified using the criteria provided in section 16.1-05-06, the  
4 judges shall proceed in the manner in which judges at a general election are required to  
5 proceed, adapting the affidavit described in section 16.1-05-06 to the circumstances of the  
6 township meeting.