



NORTH DAKOTA
SECRETARY OF STATE
MICHAEL HOWE

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June 20, 2025

Ann B. Smith
ann.b.smith25@gmail.com

Dear Ms. Smith,

I am writing in response to your letter of June 18, 2025, requesting the appointment of Terry Goerger to fill the vacancy of the District 25 House of Representatives seat following the passing of former Representative Cynthia Schreiber-Beck.

Under North Dakota Century Code (NDCC) 16.1-03-07 (2), when a political party district committee selects officers, they forward the name and contact information of the chairman selected in the district to the political party state committee. As has been documented through various media reports and through a memo from the North Dakota Republican Party (NDGOP), the NDGOP has not recognized a duly elected chairman or committee of the District 25 Republicans.

The passing of Representative Schreiber-Beck resulted in a vacancy in the legislative assembly. Under NDCC 44-02-03.1 (1) the Secretary of State shall notify the chairman of the legislative management of the vacancy. That official notice was sent to Senator David Hogue on May 20, 2025 (attached). NDCC 44-02-03.1 (2) states that upon receiving notification of a vacancy, the chairman of legislative management shall notify the district committee of the political party the former member represented in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of legislative management, the chairman of the legislative management shall appoint a resident of the district to fill the vacancy.

On June 10, 2025, Chairman Hogue sent yourself and former District 25 Republican Chairman Erik Nygren a notification (attached) of the vacancy in District 25. His letter instructs the District 25 Republican committee to select an individual to fill the vacancy.

With the NDGOP's position that District 25 was not formally organized on June 10, the date of Chairman Hogue's letter, and that District 25 was not formally organized on June 18, the date of your letter of appointment, state law is unclear as to who the chairman of legislative management should notify in the event of a vacancy in the legislative assembly if the vacancy occurs from a legislative district in the party of which the former legislator was a member is not organized.

With no certainty in state law as to who the chairman of legislative management should notify in the event of a district not being organized, and with the NDGOP not recognizing District 25 as having an elected chairman or committee, it is this office's stance that there may not be a legal path directed in state law for the chairman of legislative management to appoint a resident to fill the vacancy in District 25, nor is there a legal avenue in state law for the Secretary of State to issue a certificate of appointment under these circumstances. A certificate of appointment will not be issued until the NDGOP acknowledges that a District 25 Republican Party district exists and is organized. At that time, a notice of vacancy from the chairman of Legislative Management shall be issued to the organized chairman and committee of the District 25 Republicans, and then the organized district has 21 days to fill the vacancy, or the chairman of Legislative Management shall select a resident to fill the vacancy in District 25.

The Office of the Secretary of State has no authority over the bylaws of the North Dakota Republican Party or any district committee, nor do we examine or determine if bylaws are followed of any private organization.

This office will encourage the legislative assembly and both major political parties to examine state law and work within their parties to ensure certainty in their organizations for a consistent process in filling vacancies and issuing certificates of appointment and endorsement.

Sincerely,

A handwritten signature in black ink that reads "Michael Howe". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Michael Howe
North Dakota Secretary of State

cc: Senator David Hogue, Chairman, North Dakota Legislative Management
Representative Mike Lefor, Majority Leader, North Dakota House of Representatives
Senator Larry Luick, District 25 Legislator
Representative Alissa Mitskog, District 25 Legislator
Erik Nygren, Former Chair, District 25
Matthew Simon, Chair, North Dakota Republican Party (NDGOP)
John Bjornson, Director, North Dakota Legislative Council
Terry Goerger