

HOUSE BILL NO. 1260

Introduced by

Representatives Mock, Rick C. Becker, Ruby, Thoreson, Toman

1 | A BILL for an Act to amend and reenact sections 16.1-11-36 and ~~16.1-11-37~~16.1-12-02.2 of the
2 | North Dakota Century Code, relating to primary election nominations to office.

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

4 | **SECTION 1. AMENDMENT.** Section 16.1-11-36 of the North Dakota Century Code is
5 | amended and reenacted as follows:

6 | ~~16.1-11-36. Vote required~~**Nomination at primary election for nomination.**

7 | ~~A person may not be deemed nominated as a candidate for any office at any primary~~
8 | ~~election unless that person receives a number of votes equal to the number of signatures~~
9 | ~~required, or which would have been required had the person not had the person's name placed~~
10 | ~~on the ballot through a certificate of endorsement, on a petition to have a candidate's name for~~
11 | ~~that office placed on the primary ballot.~~The number of individuals to be nominated as
12 | candidates for a party office by a party having a separate column on the primary election ballot
13 | must be that number of individuals who receive the highest number of votes and who total ~~twice~~
14 | the number of available positions for the office if that many individuals are candidates for
15 | nomination by that party.

16 | ~~—~~**~~SECTION 2. AMENDMENT.~~** ~~Section 16.1-11-37 of the North Dakota Century Code is~~
17 | ~~amended and reenacted as follows:~~

18 | ~~—~~**~~16.1-11-37. Vote required for nomination~~~~Nomination on no-party ballot -- Partisan~~**
19 | **~~nominations prohibited.~~**

20 | ~~—~~~~The number of persons~~individuals ~~to be nominated as candidates for any one no-party~~
21 | ~~office must be that number of persons~~individuals ~~who receive the highest number of votes and~~
22 | ~~who total twice the number of available positions for the office if that many persons~~individuals
23 | ~~are candidates for nomination. Provided, however, that a person may not be deemed nominated~~
24 | ~~as a candidate for any no-party office at any primary election unless the number of votes~~

~~received by the person equals the number of signatures of qualified electors required to be obtained on a petition to have a candidate's name for the office placed on the primary ballot. No partisan nominations may be made for any of the offices mentioned in section 16.1-11-08.~~

SECTION 2. AMENDMENT. Section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02.2. Counting of write-in votes - Certificate of candidacy by write-in candidates.

1. An election board or canvassing board may not count or be required to officially report any write-in vote for any:
 - a. Individual who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.
 - b. Fictitious person or individual clearly not eligible to qualify for the office for which the vote was cast.
 - c. Statement concerning the candidates.
 - d. Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the county recorder no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in

1 candidate's name has been written on the ballot opposite the office to be voted
2 for or because of any other cogent evidence of intent.

3 e. Write-in votes which constitute five percent or less of the votes cast by the voters
4 for the candidate receiving the most votes for that office, except in the case of a
5 primary election in which enough votes were cast as write-in votes to qualify a
6 name for the general election ballot. This percentage is to be calculated based on
7 the total number of write-in votes tabulated by the voting equipment in the
8 precincts of the county in which that office was on the ballot.

9 f. Write-in votes that do not need to be individually canvassed based on the
10 requirements of this subsection must be listed on the official canvass report as
11 "scattered write-ins".

12 2. An individual who intends to be a write-in candidate for president of the United States
13 or for a statewide nonpartisan or a judicial district office at any election or a statewide
14 partisan office at the general election shall file a certificate of write-in candidacy with
15 the secretary of state by four p.m. on the twenty-first day before the election. The
16 certificate must contain the name and address of the candidate and be signed by the
17 candidate. Before the thirteenth day before the election, the secretary of state shall
18 certify the names of the candidates to each county auditor as write-in candidates.

19 3. An individual who intends to be a write-in candidate at the general election for
20 president of the United States shall file a certificate of write-in candidacy with the
21 secretary of state by four p.m. on the twenty-first day before the general election. The
22 certificate must contain the names and addresses of the candidates for presidential
23 electors for that presidential candidate and a certification of acceptance signed by
24 each candidate for elector. The candidate shall sign the certificate. The certificate may
25 also include the name and address of a candidate for vice president of the United
26 States and a certification of acceptance signed by that candidate. The secretary of
27 state shall prescribe the form of the certificate of write-in candidacy and the
28 certification of acceptance. Before the thirteenth day before the election, the secretary
29 of state shall certify the names of the presidential candidates and the presidential
30 electors to each county auditor as write-in candidates.

1 4. An individual who intends to be a write-in candidate for nomination to any legislative
2 office or any statewide partisan office at a primary election shall file a certificate of
3 write-in candidacy with the secretary of state before four p.m. on the fourth day before
4 the election. The certificate must include a signed affidavit that includes the name and
5 address of the candidate and an affirmation that the candidate has reviewed the
6 requirements to hold the office and is qualified to serve if elected.

7 5. An individual who intends to be a write-in candidate at the general election for any
8 legislative district office shall file a certificate of write-in candidacy with the secretary of
9 state. The certificate must contain the name, address, and signature of the candidate.
10 Certificates must be filed by four p.m. on the fourth day before the election. When the
11 candidate files a certificate, the candidate also shall file the contribution statement
12 provided for under section 16.1-08.1-02 complete through the day of the filing of the
13 certificate.

14 ~~5.6.~~ A certificate under ~~this section~~ subsection 2, 3, or 5 is not required when:

- 15 a. No names will appear on the ballot for an office;
- 16 b. The number of candidates appearing on the ballot for an office is less than the
17 number to be elected; or
- 18 c. The number of candidates appearing on the ballot for a party office is less than
19 the number of nominations a party is entitled to make.

20 ~~6.7.~~ An individual required to file a certificate of write-in candidacy may not seek more than
21 one office appearing on the primary and general election ballots.