

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 16.1-12-02.2 of the North  
2 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 the  
14 number of available positions for the office if that many individuals are candidates for  
15 nomination by that party.

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

18 **16.1-12-02.2. Counting of write-in votes - Certificate of candidacy by write-in**  
19 **candidates.**

- 20 1. An election board or canvassing board may not count or be required to officially report  
21 any write-in vote for any:
- 22 a. Individual who is required to file a certificate of write-in candidacy under this  
23 section but who has not filed a certificate of candidacy and been certified as a  
24 write-in candidate.

- 1           b. Fictitious person or individual clearly not eligible to qualify for the office for which  
2           the vote was cast.
- 3           c. Statement concerning the candidates.
- 4           d. Name written or printed by the voter for an office that did not also include the  
5           darkening of the oval next to the write-in line, except that a write-in candidate for  
6           a nonfederal office may make a timely written demand to a county canvassing  
7           board to identify and preserve any write-in vote cast for the office sought by the  
8           write-in candidate for canvass by the board. The candidate shall deliver the  
9           demand to the county auditor and a copy to the county recorder no later than  
10          thirty-six hours before the time the county canvassing board is scheduled to  
11          meet. A demand only may be made if the unofficial election results maintained by  
12          the county auditor demonstrate that the write-in candidate's known vote total is  
13          within the pertinent percentage limits provided in subsection 1 or 2 of section  
14          16.1-16-01 and a statement to that effect is included in the demand. After delivery  
15          of the ballots as provided by section 16.1-15-08, the canvassing board shall  
16          review the ballots to identify any ballot that contains a write-in vote. The county  
17          canvassing board shall tally and canvass any write-in vote in the same manner  
18          as lawful or qualifying write-in votes if the canvassing board is able to clearly  
19          ascertain the intent of the voter from examining the ballot because the write-in  
20          candidate's name has been written on the ballot opposite the office to be voted  
21          for or because of any other cogent evidence of intent.
- 22          e. Write-in votes which constitute five percent or less of the votes cast by the voters  
23          for the candidate receiving the most votes for that office, except in the case of a  
24          primary election in which enough votes were cast as write-in votes to qualify a  
25          name for the general election ballot. This percentage is to be calculated based on  
26          the total number of write-in votes tabulated by the voting equipment in the  
27          precincts of the county in which that office was on the ballot.
- 28          f. Write-in votes that do not need to be individually canvassed based on the  
29          requirements of this subsection must be listed on the official canvass report as  
30          "scattered write-ins".

- 1        2. An individual who intends to be a write-in candidate for president of the United States  
2        or for a statewide nonpartisan or a judicial district office at any election or a statewide  
3        partisan office at the general election shall file a certificate of write-in candidacy with  
4        the secretary of state by four p.m. on the twenty-first day before the election. The  
5        certificate must contain the name and address of the candidate and be signed by the  
6        candidate. Before the thirteenth day before the election, the secretary of state shall  
7        certify the names of the candidates to each county auditor as write-in candidates.
- 8        3. An individual who intends to be a write-in candidate at the general election for  
9        president of the United States shall file a certificate of write-in candidacy with the  
10       secretary of state by four p.m. on the twenty-first day before the general election. The  
11       certificate must contain the names and addresses of the candidates for presidential  
12       electors for that presidential candidate and a certification of acceptance signed by  
13       each candidate for elector. The candidate shall sign the certificate. The certificate may  
14       also include the name and address of a candidate for vice president of the United  
15       States and a certification of acceptance signed by that candidate. The secretary of  
16       state shall prescribe the form of the certificate of write-in candidacy and the  
17       certification of acceptance. Before the thirteenth day before the election, the secretary  
18       of state shall certify the names of the presidential candidates and the presidential  
19       electors to each county auditor as write-in candidates.
- 20       4. An individual who intends to be a write-in candidate for nomination to any legislative  
21       office or any statewide partisan office at a primary election shall file a certificate of  
22       write-in candidacy with the secretary of state before four p.m. on the fourth day before  
23       the election. The certificate must include a signed affidavit that includes the name and  
24       address of the candidate and an affirmation that the candidate has reviewed the  
25       requirements to hold the office and is qualified to serve if elected.
- 26       5. An individual who intends to be a write-in candidate at the general election for any  
27       legislative district office shall file a certificate of write-in candidacy with the secretary of  
28       state. The certificate must contain the name, address, and signature of the candidate.  
29       Certificates must be filed by four p.m. on the fourth day before the election. When the  
30       candidate files a certificate, the candidate also shall file the contribution statement

1 provided for under section 16.1-08.1-02 complete through the day of the filing of the  
2 certificate.

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

4 a. No names will appear on the ballot for an office;

5 b. The number of candidates appearing on the ballot for an office is less than the  
6 number to be elected; or

7 c. The number of candidates appearing on the ballot for a party office is less than  
8 the number of nominations a party is entitled to make.

9 ~~6.7.~~ An individual required to file a certificate of write-in candidacy may not seek more than  
10 one office appearing on the primary and general election ballots.