2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1260

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1260
1/29/2015
22801

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to primary election nominations to office

Minutes: Attachments 1-2

Chairman Kasper opened the hearing on HB 1260.

Rep. Corey Mock, appeared in support of HB 1260. Amendments will be needed on this bill and are being prepared. The intent of the bill and the language as it was written are completely different. The intent of the bill is to remove the minimum vote requirement for a nominated candidate to move from the primary to the general election. As it is written it would potentially cause a larger number of candidates to advance. In ND any candidate who is running for a partisan office goes onto the primary ballot for any race. For statewide races, you have to be the top recipient in that race, and you have to receive a minimum vote. For a statewide candidate, you would have to receive no less than 300 votes and be deemed the winner of that election. For a legislative race, you have to receive 1% of the total number of residents in that district. The Libertarian Party will have a column on the primary election ballot for the 2016 election, and they will endorse candidates for most of the statewide races and in some districts, they will endorse candidates for state representative and state senator. Unless this law changes, there will be for the 40th year no libertarian candidate in the general election. We will be the only state in the country where no third party candidate will be a candidate for state house or state senate in the general election. The reason is because we are the only state that has a minimum number of votes required for a partisan candidate to advance from the primary to the general election. Part of an email was read that explains this better. (4:00-6:14) The bill as the amendments will reflect will be to remove the minimum vote test that a party race must meet. For those that would be running as a write-in candidate, in order to advance as a top vote recipient, you would have to be a certified write-in candidate. You would have to file papers as any other candidate to be a write-in candidate.

Chairman Kasper Are you able to share who is the author of that email?

Rep. Mock Richard Winger. He is an advocate for ballot access. I believe his organization is called Ballot Access Now. I can happily provide that to you.

Rep. Laning Would there still be limitations on the number per party under your revisions?

Rep. Mock Correct. The intent is not to increase the number of candidates that a party could move from the primary to the general. It would just remove the minimum vote test required.

Rep. Amerman Was there any discussion about cross parties getting a minimum vote?

Rep. Mock You are referring to cross voting. That has been discussed. It is not encouraged. It is not the intent of this bill.

Vice Chair Rohr Did you submit this bill on behalf of a constituent or do you have some philosophical viewpoints? Share with us why you think this is important.

Rep. Mock I do believe that minimum vote test is unnecessary. It provides undue restrictions for minor party candidates to have candidates for the legislature. Minor parties are difficult to organize in the United States. It is rare that you have third party candidates moving forward, but that does not diminish the importance of their involvement in the political process. This issue has been brought to me on multiple occasions. Mr. Winger is one, but third party, minor parties in North Dakota have also expressed this as a major concern to me.

Rep. Karls I recall a conversation with my county auditor several years ago when these were allowed, and the fact that his county because of it had to print an extra page on the ballot which was empty on the back side and had these races that got very few votes. It was quite costly to do that, and in our county there are many precincts. Some of them have intercity races. Some of them don't. They all have to be separated. Does the cost matter at all?

Rep. Mock This law does not change how a party can secure access on the primary ballot. In 2016 there will be three columns on the front page of the ballot in every precinct in North Dakota, because the Libertarian Party has qualified. All this would do is allow state representatives and senators access to the general election.

Rep. Karls I am speaking of the general election ballot.

Rep. Mock In the general election, there will be no party. All this would be is an additional candidate or two that would be on the ballot. I see no concern of having one, two, or three additional names printed on a ballot for a general election race.

Rep. B. Koppelman Is there any requirements in our law as to whether or not you have to get a simple majority of votes in the general election to be elected? Could you end up with a three-way race where somebody got 40% of the vote, and if so, would they still be elected representative or would there have to be some sort of runoff?

Rep. Mock The highest number of votes. It has occurred where elected officials have been elected with a plurality. This would not change that.

Rep. Mooney Do you know why the minimum requirement was put into place in the first place?

Rep. Mock No, I do not.

Rep. Louser How many parties do we have in North Dakota?

Rep. Mock In the 2016 election, there will be three parties that will be on the ballot. I have no way of knowing how many other parties there may exist. I believe there is a Constitution Party.

Chairman Kasper asked when the amendments would be ready and Rep. Mock thought by the next morning. Attachment 2 had been emailed to the committee clerk to be handed out to the committee.

Opposition

Jim Silrum, Deputy Secretary of State, appeared in opposition. Attachment 1 (16:40-19:30) We, too, have been repeatedly contacted by Mr. Winger. Mr. Winger does have a single point of focus, and we are happy for him to have that single point of focus. He is a Californian and does not have nearly the credibility with us as does somebody who may be from within the state. Aside from the challenge that existed in the 2010 election, we have never had people requesting us to put forward legislation that would reduce the number of votes necessary at a primary to move forward.

Chairman Kasper Under current law for the primary election, how many votes does an independent candidate need to be able to move forward to the general election? Is it the chart you have given us which is double? Just clarify.

Jim Silrum In ND if you want to run for an office under a political party banner and want to run in the primary, you have to be associated with one of the recognized parties of the state. Right now we know of three parties that will be on the ballot in 2016. However, there could be more coming forward because the law says that if any other party circulates petitions to get 7,000 or more signatures, they can become a recognized party for the next election. Being next election is a presidential election, we are fully anticipating that the Constitution, Tea Party, Green Party, a number of parties are going to step forward to have a space for their presidential candidate to be on the general election ballot. If a North Dakotan wants to run as an independent candidate for a political party office, that means they skip the primary election entirely, and they would need to gather in a legislative contest twice the number of signatures they would need as would have been the case for getting on the primary.

Chairman Kasper That is the general election? Column 2 of the chart is the general election requirements?

Jim Silrum Column 2 is the general election only. The first column (Legislative Petition Signatures Required for Primary Candidates) is for the June election primary.

No neutral.

The hearing was closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1260
1/30/2015
22882

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to primary election nominations to office

Minutes: Attachment 1

Chairman Kasper opened the meeting on HB 1260.

Rep. Corey Mock presented the amendments. Attachment 1. He went over the attachment. A note was made on the amendments for consistency purposes (Page 2). (End 4:50)

Chairman Kasper You have the 4th written in on No. 4. Are you suggesting we amend your amendment?

Rep. Mock Yes. The 4th would go on the highlighted part. This would be the same as in Paragraph 5.

Rep. Mooney made a motion to adopt Rep. Mock's amendments and add the word 4th as indicated on Page 2, Subsection 4.

Rep. Laning seconded the motion.

Rep. Amerman We really haven't done anything with the amendments. Do we have to have a motion just to put that forward?

Chairman Kasper Probably. Let us back up and ask for a motion to consider Rep. Mock's amendment. Rep. Mooney you make the motion to move Rep. Mock's amendments.

Rep. Mooney That is what I intended my motion to be.

Rep. Laning seconded the motion.

Rep. Mooney made a motion to further amend to include the 4th on the 4th line of Subsection 4, Page 2, between "the" and "date."

Rep. Seibel seconded the motion.

Voice vote was taken. Motion carried.

Rep. Mock stated a correction needs to be made and the amended amendment needs to have a voice vote.

Rep. Schneider withdrew her motion and **Rep. Wallman** withdrew her second for a do pass as amended.

Rep. Steiner made a motion to adopt the amendment as amended.

Rep. Mooney seconded the motion.

Voice vote was taken. Motion carries.

Rep. Steiner made a motion for a DO NOT PASS AS AMENDED.

Vice Chair Rohr seconded the motion.

Rep. Mooney I will resist the do not pass motion. It just provides for that third party to be able to have a process here in North Dakota state government election processes. I think that is a good thing for us to do to allow that.

Rep. Steiner We did hear from the Secretary of State that the law requiring a candidate to receive at least the same number of votes as the individual would need signatures is not an onerous requirement. The courts in North Dakota have upheld this law, and so I don't feel we need to change it at this time.

Rep. Mooney For whatever good it may or may not do, I think that the Secretary of State's position may be one of "This is the way it has always been. Let's leave it alone." I don't think it does us any harm for us to expand our sense of democracy to a growing number of people in North Dakota who are feeling that they are being disenfranchised by either party affiliation and would like to have a stronger voice in our democratic processes.

A roll call vote was taken. 6 Yeas, 8 Nays, 0 Absent. FAILS

Rep. Mooney made a motion for a DO PASS AS AMENDED.

Rep. M. Johnson seconded the motion.

Rep. Karls I would resist the motion. I did speak with my county auditor. There was a time when we did have a third party. The threshold was much lower than it is presently, and our county had to print that third sheet at a great expense.

Rep. B. Koppelman When I first heard this bill, I was lukewarm to it. We require signatures often times to get on various types of ballots, some of them that are nonpartisan. Part of the process is getting more than just yourself to think you are a good guy to do it. In

the major parties where we have a process for becoming endorsed, you have to convince many more people that you are the right person for the job. I am going to resist the motion as well.

Chairman Kasper This is a pretty big move. This will allow an unlimited number of parties appearing on our ballot if we don't have some minimum requirement. It could become more confusing for the voters. I think the way we do things now is fair

Rep. Wallman We do have public offices where you don't have to get signatures. School boards were an instance.

Rep. Seibel I am also going to resist which would put us into a 7-7 tie. If it so carries, then I am not sure what happens.

A roll call vote was taken. 7 Yeas, 7 Nays, 0 Absent. FAILS

Rep. B. Koppelman If a do not pass failed and a do pass failed, does that automatically go to the floor without recommendation?

Chairman Kasper Not unless I do that. I think we will just close and let it set aside and simmer.

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1260
2/12/2015
23741

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to primary election nominations to office.

Minutes: "Click to enter attachment information."

Chairman Kasper opened the meeting on HB 1260. We will have to review it and take another vote and will send it out to however the vote goes. He briefly reviewed the bill. aside. There was discussion if they adopted Rep. Mock's amendment.

Rep. Wallman Can we pass it out with no recommendation?

Chairman Kasper Yes, we can.

Rep. Wallman Can I move that there was no recommendation?

Rep. Louser The 6-8 vote was a do not pass. Then we had a motion to do pass. That was 7-7 so I don't think that amendment was ever placed on that bill.

Chairman Kasper had the committee clerk give a copy of the minutes to the committee at the next meeting to determine if the amendment had been adopted.

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1260
2/13/2015
23832

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to primary election nominations to office

Minutes: "Click to enter attachment information."

Chairman Kasper opened the meeting on HB 1260. The minutes showed that we left the last action as a tie vote and set it aside to simmer. He read the Secretary of State's testimony.

Rep. Amerman It looks like Rep. Steiner made a motion to adopt the amended amendment and it was seconded. There was a voice vote and the motion carries. I think we adopted the amendment, but we amended it to add that 4 in there.

Rep. Karls made a motion for a DO NOT PASS AS AMENDED.

Vice Chair Rohr seconded the motion.

Rep. Wallman When you spoke with the Secretary of State, was his opinion on the bill as amended or the original bill?

Chairman Kasper He wants the bill to be killed, because they don't see the need to reduce the number of votes the candidate must receive in the primary.

Rep. M. Johnson I do not believe at all that gathering 300 signatures is onerous. I am in support of the motion.

A roll call vote was taken. 10 Yeas, 4 Nays, 0 Absent.

Rep. Karls will carry the bill.

Prepared by the Legislative Council staff for
Representative Mock
January 29, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1260

Page 1, line 1, replace "16.1-11-37" with "16.1-12-02.2"

Page 1, line 13, remove "twice"

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 3 with:

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

   e. Write-in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that office,

except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.

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

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

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

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

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

~~5.~~6. A certificate under ~~this section~~subsection 2, 3, or 5 is not required when:

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

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

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

~~6.~~7. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots."

Renumber accordingly

15.0639.01002
Title.02000

Prepared by the Legislative Council staff for
House Government and Veterans Affairs
Committee

February 13, 2015

HG 2-13-15 1 of 3

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1260

Page 1, line 1, replace "16.1-11-37" with "16.1-12-02.2"

Page 1, line 13, remove "twice"

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 3 with:

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

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

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

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

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

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

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

~~5.~~6. A certificate under ~~this section~~subsection 2, 3, or 5 is not required when:

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

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

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

~~6.~~7. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots."

Renumber accordingly

Date: 1-30-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1266

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: Mock amendment

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☒ Further amend

Motion Made By Mooney Seconded By Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Bill Amerman		
Vice Chair Karen Rohr			Rep. Gail Mooney		
Rep. Jason Dockter			Rep. Mary Schneider		
Rep. Mary C. Johnson			Rep. Kris Wallman		
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning			Voice		
Rep. Scott Louser			Vote		
Rep. Jay Seibel					
Rep. Vicky Steiner					
			motion carries		

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Further amend to include the 4th on the 4th line of Subsection 4, Page 2, between "the" and "date."

Date: 1-30-15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1260

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: 15.0639.01001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Steiner Seconded By Mooney

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Bill Amerman		
Vice Chair Karen Rohr			Rep. Gail Mooney		
Rep. Jason Dockter			Rep. Mary Schneider		
Rep. Mary C. Johnson			Rep. Kris Wallman		
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning					
Rep. Scott Louser					
Rep. Jay Seibel					
Rep. Vicky Steiner					

Voice Vote Motion Carries

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Adopt amendment as amended
Further amend to include the 4th on the 4th line of subsection 1, Page 2 between "the" and "date."

Date: 1-30-15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1260

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation:
☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Steiner Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chair Karen Rohr	X		Rep. Gail Mooney		X
Rep. Jason Dockter	X		Rep. Mary Schneider		X
Rep. Mary C. Johnson		X	Rep. Kris Wallman		X
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning		X			
Rep. Scott Louser		X	Motion		
Rep. Jay Seibel		X	Fail		
Rep. Vicky Steiner	X				

Total (Yes) 6 No 8

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 1-30-15
Roll Call Vote #: 4

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1260

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:
☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Mooney Seconded By M. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper		X	Rep. Bill Amerman	X	
Vice Chair Karen Rohr		X	Rep. Gail Mooney	X	
Rep. Jason Dockter		X	Rep. Mary Schneider	X	
Rep. Mary C. Johnson	X		Rep. Kris Wallman	X	
Rep. Karen Karls		X			
Rep. Ben Koppelman		X			
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel		X			
Rep. Vicky Steiner		X			
			motion fails		

Total (Yes) 7 No 7

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-13-15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1260

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation:
☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Karls Seconded By Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chair Karen Rohr	X		Rep. Gail Mooney		X
Rep. Jason Dockter	X		Rep. Mary Schneider		X
Rep. Mary C. Johnson	X		Rep. Kris Wallman		X
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Karls

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1260: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1260 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "16.1-11-37" with "16.1-12-02.2"

Page 1, line 13, remove "twice"

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 3 with:

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

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

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

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

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

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

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

~~5.~~6. A certificate under ~~this section~~subsection 2, 3, or 5 is not required when:

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

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

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

~~6.~~7. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots."

Renumber accordingly

2015 TESTIMONY

HB 1260

#1
1260
1-29-15

ALVIN A. JAEGER
SECRETARY OF STATE
WEBPAGE www.nd.gov/sos

PHONE (701) 328-2900
FAX (701) 328-2992
E-MAIL sos@nd.gov

SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

January 29, 2015

TO: Chairman Jim Kasper and members of the House Government and Veteran's Affairs Committee

FR: Jim Silrum, Deputy Secretary of State, on behalf of Secretary of State Al Jaeger

RE: HB 1260 – Vote Thresholds Necessary for Nomination in the Political Party Primary Election

Aside from an amendment that would most likely be necessary in the new wording on page 1, lines 11 through 15 regarding the number of candidates to be nominated from each political party, we do not see the need to lower the number of votes necessary in order to be nominated.

The current law states that in order to advance from the primary to the general election and have the candidate's name listed on the general election ballot, a candidate must receive at least as many votes as the number of signatures required on the Petition/Certificate of Nomination form. As can be seen by the attached document, legislative candidates seeking to be included on the ballot by circulating a petition need only gather less than 150 signatures from qualified electors of the district in which the individual is seeking nomination.

The Secretary of State does not believe that the law requiring a candidate to receive at least the same number of votes as the individual would need signatures is an onerous requirement. And the courts in North Dakota have upheld the law in this area when this requirement has been challenged in the past.

We request your consideration for a do not pass recommendation.

Statistics and Legislative Petition Signature Requirements for North Dakota's Legislative Districts

Statistics Based Upon 2010 Census Data

Legislative District	Total Resident Population	Counties Included	Legislative Petition Signatures Required for Primary Candidates *	Legislative Petition Signatures Required for Independent Candidates *
1	14,395	Williams	143.95	287.9
2	14,657	Burke, Divide, Mountrail, Williams	146.57	293.14
3	14,626	Ward	146.26	292.52
4	14,081	Dunn, McKenzie, McLean, Mercer, Mountrail, Ward	140.81	281.62
5	14,129	Ward	141.29	282.58
6	14,294	Bottineau, McHenry, Renville	142.94	285.88
7	13,919	Burleigh	139.19	278.38
8	14,175	Burleigh, McLean	141.75	283.5
9	13,937	Rolette	139.37	278.74
10	14,393	Cavalier, Pembina, Walsh	143.93	287.86
11	14,781	Cass	147.81	295.62
12	13,706	Stutsman	137.06	274.12
13	14,862	Cass	148.62	297.24
14	14,431	Benson, Kidder, Pierce, Sheridan, Wells	144.31	288.62
15	13,697	Ramsey, Towner	136.97	273.94
16	14,897	Cass	148.97	297.94
17	13,894	Grand Forks	138.94	277.88
18	13,929	Grand Forks	139.29	278.58
19	13,812	Grand Forks, Walsh	138.12	276.24
20	14,314	Cass, Grand Forks,Traill	143.14	286.28
21	14,728	Cass	147.28	294.56
22	14,838	Cass	148.38	296.76
23	14,455	Benson, Eddy, Griggs, Nelson, Steele	144.55	289.1
24	14,156	Barnes, Cass, Ransom	141.56	283.12
25	14,469	Cass, Richland	144.69	289.38
26	14,021	Dickey, Ransom, Richland, Sargent	140.21	280.42
27	14,014	Cass	140.14	280.28
28	13,729	Burleigh, Dickey, Emmons, LaMoure, Logan, McIntosh	137.29	274.58
29	13,629	Foster, LaMoure, Stutsman	136.29	272.58
30	14,689	Burleigh	146.89	293.78

* Based upon 1% of the total population of the legislative district for candidates wanting to participate in the Primary Election and 2% for independent candidates wanting to participate in the General Election

Statistics and Legislative Petition Signature Requirements for North Dakota's Legislative Districts

Statistics Based Upon 2010 Census Data

Legislative District	Total Resident Population	Counties Included	Legislative Petition Signatures Required for Primary Candidates *	Legislative Petition Signatures Required for Independent Candidates *
31	14,844	Grant, Hettinger, Morton, Sioux	148.44	296.88
32	14,541	Burleigh	145.41	290.82
33	14,279	Mercer, Morton, Oliver	142.79	285.58
34	14,439	Morton	144.39	288.78
35	14,787	Burliegh	147.87	295.74
36	14,084	Dunn, Hettinger, Morton, Stark	140.84	281.68
37	14,301	Stark	143.01	286.02
38	14,093	Ward	140.93	281.86
39	14,806	Adams, Billings, Bowman, Dunn, Golden Valley, McKenzie, Slope	148.06	296.12
40	14,257	Ward	142.57	285.14
41	14,668	Cass	146.68	293.36
42	14,001	Grand Forks	140.01	280.02
43	13,906	Grand Forks	139.06	278.12
44	14,213	Cass	142.13	284.26
45	14,575	Cass	145.75	291.5
46	14,630	Cass	146.3	292.6
47	14,510	Burleigh	145.10	290.20

* Based upon 1% of the total population of the legislative district for candidates wanting to participate in the Primary Election and 2% for independent candidates wanting to participate in the General Election

P.3

#2 HB 1260 1-29-15

NDLA, H GVA - Hart, Carmen

From: -Adm-Legislative Council
Sent: Thursday, January 29, 2015 8:23 AM
To: NDLA, H GVA - Hart, Carmen
Subject: FW: HB 1260

-----Original Message-----
From: riemers@juno.com [mailto:riemers@juno.com]
Sent: Wednesday, January 28, 2015 10:18 PM
To: -Adm-Legislative Council
Cc: riemers@juno.com
Subject: HB 1260

From: Roland Riemers, Chairman, ND Libertarian Party

To: House Government & Veterans Affairs Committee

Re: HB 1260, changing election requirements, hearing 8 a.m.

Because of the early hour and the current icy conditions of the roads, I will be unable to attend the 8 a.m. hearing on HB 1260. But I would like this email to be added to the Committee minutes.

I am the current chairman of the N.D. Libertarian Party and we fully support the changes suggested in HB 1260.

While the current law on its face appears fair as only a minimal number of votes are required in the primary to maintain ballot status, the reality is something else. Generally primary voters are fairly firm supporters of the two major parties, while third party voters tend to be more non-traditional, independent, and vote only in the more interesting general elections. Added to this is voters are limited to voting for just one party in the primary, so if given a choice between voting for a major party ballot that may have some active contests, or a third party ballot that rarely has any contests in the primary, voters tend to go to the more exciting major party ballots. Major party ballots are also presented on the front of the ballot, while the mostly blank third party ballots are placed on the back. So most voters probably do not even realize they are there. Third party candidates also rarely if ever get any media coverage for the primary so the public is kept completely in the dark that they are running in the primary.

Time and again, I have observed that the percentage of primary Libertarian voters does not honestly reflect Libertarian support in the general election. For instance, in the last primary election I believe we ran about 1.3% of the total vote, but averaged around 6% in the general election.

In the past decades my advise to Libertarians who want to run for a local legislative office with Libertarian endorsement is to just forget it, as they will never make it though the primary. So instead we are forced to concentrate on just statewide office elections.

I think for fairness, and for more open elections, HB 1260 deserves to pass.

But as long as the legislature is interesting in tweaking our elections laws. I would suggest one other modification to make our elections fairer for third parties and the voters.

Currently under state election law (16.1-03-21 and 16.1-11-30) it requires that a third party get 5% of the general election vote to maintain ballot status. The 5% seems fair, but again the reality is very different. It is either 5% of the vote for president, governor, attorney general, or secretary of state. For a third party candidate to get 5% of a hotly contested presidential race is nearly impossible. A candidate for attorney general first has to be a lawyer, and we have found it impossible to get a licensed ND lawyer to run on a third party ticket. Governor is possible, but the Governor is really Governor and Lt. Governor, so as it happened in the last election, our Lt. Governor candidate messed up his filings, and the Governor candidate who is the one described by law to get 5%, could not run in the general election. That leaves only the Secretary of state, who is a popular Republican who will probably die in office and is thus difficult to run against.

I would suggest that a more fair way of measuring third party support would be to require 5% OF THE AVERAGE VOTE FOR ALL THE STATEWIDE CANDIDATES THE THIRD PARTY HAS CANDIDATES LISTED ON THE BALLOT.

I would not include the presidential electors as that is a totally different horse race and really does not reflect the third party strength in the state, which is actually what we should be looking at.

I would suggest that this 5% requirement change either be made a part of HB 1260, or that hopefully one or more of the sponsors of HB 1260 would submit that change as a separate bill.

Sincerely, Roland Riemers, ND Libertarian Party Chairman

28 January 2015

#1 1260 1-30-15

15.0639.01001
Title.

Prepared by the Legislative Council staff for
Representative Mock
January 29, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1260

Page 1, line 1, replace "16.1-11-37" with "16.1-12-02.2"

Page 1, line 13, remove "twice"

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 3 with:

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

   e. Write-in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that office,

except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.

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

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

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

4th

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

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

~~5.~~6. A certificate under ~~this section~~subsection 2, 3, or 5 is not required when:

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

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

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

~~6.~~7. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots."

Renumber accordingly