

**2017 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2308**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SB2308  
2/1/2019  
# 31976

- Subcommittee  
 Conference Committee

Committee Clerk Signature : Pam Dever

### Explanation or reason for introduction of bill/resolution:

Relating to ballot formats, write-ins, and certificate of nominations.

### Minutes:

Att #1 – Jim Silrum

**Chairman Davison:** Attendance was taken and all were present. Let's open SB2308.

**Vice Chair Meyer, Dist. 18, Grand Forks:** This is a secretary of state bill dealing with the candidate side. Removing a name on the ballot.

**Jim Silrum, Assist Secretary of State:** This is our bill so we support this bill. (see att #1) He went through the sections with the committee. (2.35—5.5)

**Chairman Davison:** Should we kill one bill since there are two related?

**Jim:** Not really. This just opens the discussion. Whatever bill passes last, is the one that is followed. You just need to decide.

**Sen. Erin Oban:** If we pass this and don't get new voting machines, will we be able to do this in the old technology.

**Jim:** If we don't get new technology, we will have to do manual sorting again. It looks good like we will get funding for the new voting system. We now have optical scan. The new is digital scan. We will not have to sort ballots like we do now. We don't want more than one vote per voter. (13.47) Even if we have to do bake sales, we will. Our system is Windows7, and they will not support 7 anymore.

**Donnell Presky, County Auditors Director:** (15.35-) They believe this is good. We are very supportive in getting new equipment.

**Chairman Davison:** Any more for. Any against? Hearing is closed. (16.40)

# 2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Sheyenne River Room, State Capitol

SB2308  
2/7/2019  
# 32396

- Subcommittee  
 Conference Committee

Committee Clerk Signature : Pam Dever

## Explanation or reason for introduction of bill/resolution:

Relating to ballot formats, write-ins, and certificates of nominations.

## Minutes:

**Chairman Davison:** Look at SB2308. I think we were going to put some of the language of SB2333 into SB2308. Was anyone working on that?

**Sen. Erin Oban:** I have an amendment coming.

**Chairman Davison:** I think we could just kill SB2333, but we can put them back to back on calendar.

Done (1.10)

# 2019 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SB2308  
2/14/2019  
# 32745

- Subcommittee  
 Conference Committee

Committee Clerk: Pam Dever

### Explanation or reason for introduction of bill/resolution:

Relating to ballot formats, write-ins, and certificates of nominations.

### Minutes:

Att #1 – Sen. Oban

**Chairman Davison:** Please look at SB2308.

**Vice Chair Meyer:** This bill would kill off SB2333.

**Sen. Erin Oban:** (see att #1) You will recall that SB2308 is about a candidate getting their name off the ballot. We talked about page 1, line 21, where it says a candidate has any time before the filing deadline. We wanted to narrow that a bit. We wanted 48 hours after the filing deadline. It gives a hard deadline for the Secretary of State and no one can questions why they are making a decision. That is what the amendment would do. It would also add section 4. It would do that for primary and general elections. (1.59)

**Sen. Erin Oban:** I move amendment 19.0988.01002.      **Vice Chair Meyer:** I second.

**Chairman Davison:** Any discussion? Take roll: **YES -- 7 NO -- 0 -0-absent.**  
**Amendment passed.**

**Sen. Erin Oban:** I move a DO PASS as AMENDED.      **Vice Chair Meyer:** I second.

**Vice Chair Meyer:** Sen. Oban and I have talked with Jim Silrum of SOS and it tied together SB2333 and addressed the exact timeline. They were happy.

**Chairman Davison:** Any discussion? Call roll: **YES -- 7 NO -- 0 -0-absent**  
**DO PASS as AMENDED – passed. Vice Chair Meyer will carry the bill.**  
**(done 4.22)**

SKWJ

PROPOSED AMENDMENTS TO SENATE BILL NO. 2308

Page 1, line 3, after the second comma insert "section 16.1-12-07,"

Page 1, line 21, replace "before" with "within forty-eight hours after"

Page 1, line 21, replace "16.1-11-11" with "16.1-11-06"

Page 4, after line 16, insert:

**"SECTION 4. AMENDMENT.** Section 16.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-12-07. If nominee declines - Certificate void.**

Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the person is filed. If the written notice is filed with the appropriate officer ~~before~~within forty-eight hours after four p.m. on the sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer ~~before~~within forty-eight hours after four p.m. on the sixty-fourth day before the election."

Renumber accordingly

2-14-19

Date:  
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES SB 2308  
BILL/RESOLUTION NO.

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 19.0988, 01002

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 Sen Oban    Seconded By Sen Meyer

Senators	Yes	No	Senators	Yes	No
Chair Davison	/		Sen. Oban	=	
Vice Chair Meyer	/		Sen. Marcellais	/	
Sen. Elkin	/				
Sen. K. Roers	/				
Sen. Vedaa	/				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

*Amend - passed*

2-14-19

Date:  
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2308

Senate 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 Sen. Oban Seconded By Sen. Meyer

Senators	Yes	No	Senators	Yes	No
Chair Davison			Sen. Oban		
Vice Chair Meyer			Sen. Marcellais		
Sen. Elkin					
Sen. K. Roers					
Sen. Vedaa					

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Meyer

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

**REPORT OF STANDING COMMITTEE**

**SB 2308: Government and Veterans Affairs Committee (Sen. Davison, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2308 was placed on the Sixth order on the calendar.

Page 1, line 3, after the second comma insert "section 16.1-12-07,"

Page 1, line 21, replace "before" with "within forty-eight hours after"

Page 1, line 21, replace "16.1-11-11" with "16.1-11-06"

Page 4, after line 16, insert:

**"SECTION 4. AMENDMENT.** Section 16.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-12-07. If nominee declines - Certificate void.**

Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the person is filed. If the written notice is filed with the appropriate officer ~~before~~within forty-eight hours after four p.m. on the sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer ~~before~~within forty-eight hours after four p.m. on the sixty-fourth day before the election."

Renumber accordingly

**2019 HOUSE GOVERNMENT AND VETERAN AFFAIRS**

**SB 2308**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Fort Union Room, State Capitol

SB 2308  
3/14/2019  
#33768

- Subcommittee  
 Conference Committee

Committee Clerk: Carmen Hart

### Explanation or reason for introduction of bill/resolution:

Relating to counting write-in votes, relating to ballot formats, write-in votes, and certificates of nomination

### Minutes:

Attachment 1-3

**Chairman Kasper** opened the hearing on SB 2308.

**Senator Scott Meyer, District 18**, appeared in support of SB 2308. This bill deals more with candidates than the elections as compared to the prior bill that you heard.

**John Arnold, Elections Director, Secretary of State's Office**, appeared in support of SB 2308 and explained the bill. See attachment #1. (:57-6:21)

**Rep. P. Anderson:** Do we have any elections that are all write-ins?

**Mr. Arnold:** We have a lot. Many cities and schools are done by solely by write-in.

**Rep. P. Anderson:** Does it make any difference with what we are doing now with write-ins?

**Mr. Arnold:** No, it would not.

**Rep. Schauer:** How long do you think it will be before we vote electronically?

**Mr. Arnold:** It is something that is discussed a lot, but cybersecurity is definitely a concern. Currently, every single voting system has to be federally certified. There are not certification specs. for a totally electronic system right now. I am interpreting this as directly voting from my smart phone at home. Even with our situation with overseas voters; we do allow them to receive the ballots electronically. They can mark them and leave them in our servers. The ballot still has to be printed and tabulated with the physical system.

There was no further support for SB 2308.

There was no opposition to SB 2308.

**Rep. Louser** brought an amendment forward. See attachments #2. It was brought to me by the district chairman requesting that our committee would consider the concept of what this amendment would achieve. It is basically on p. 2 subsection 2. For any candidate that intends to go to the primary, should they not get the nomination, this would require the signatures to be submitted prior to the convention as opposed to after the convention. This would make the people that are at the convention aware of the intentions of the parties that are running. I would like to hear the committee's input and discussion. That is really the only involvement that I have. I requested Council to draft this in the spirit that it was requested.

**Chairman Kasper:** If you have a political office, and there are five announced candidates. They are going all over the state trying to get the delegates to support them at the convention. Then they think that they might not win; so they start to gather signatures as a fall back. Then this amendment says that they have to gather them before the convention starts, which automatically going to mean that everyone thinks that they think they might lose. Then they get to convention and say, I'm counting on you because I think I am going to win but here's my safeguard. I'm going to the primary even if I don't win.

**Rep. B. Koppelman:** Where does it say you have to gather the signatures before the convention.

**Rep. Louser:** It is in the timing, the 64<sup>th</sup> day. The 64<sup>th</sup> day is changed to 71<sup>st</sup> day on p. 2.

**Rep. B. Koppelman:** So, what does the law say about when the convention has to occur? I had a conversation with the same gentleman. He was looking to put into law that the Secretary of State had to allow the 48-hour withdrawal period before the deadline. It really didn't pay to start counting signatures until after the withdraw deadline was passed. That was essentially shortening the time frame for the Secretary of State to do what they have to do with the petition by two days. That is a big undertaking if it is a race that has a lot of those signatures. The logic was that by extending it to 7 days back before that, it gave the Secretary of State more time to process the signatures to get on the primary ballot. I was not aware that it was mandated that the convention happened after that. I think there was a wider time frame than that.

**Chairman Kasper:** Can you walk us through the timeline on paragraph 2 page 2?

**Jim Silrum, Deputy Director of Secretary of State,** appeared to answer questions on the amendment. You need to go back further to page 1. You need to understand that right now under our law the filing deadline for any candidate to get their name on the primary election ballot is the 64<sup>th</sup> day by 5:00 PM. This amendment in subsection 2 is on the second page. It simply says that those who are running for a political party office and are gathering signatures on petitions, as opposed to the certificate of endorsement of a political party, need to submit their completed petitions by 4:00 PM on the 71<sup>st</sup> day before the election. That gives the Secretary of State an extra amount of time to validate that all of the people who signed the petitions are qualified to sign the petitions. Generally, the way this relates to a convention is totally independent on when a political party decides to hold its convention. For example, last year the Democratic NPL party held their convention several weeks before the filing deadline because that is when they could get their facility reserved and gather everyone together. The Republicans held their convention on the weekend immediately preceding the

filing deadline. The 64<sup>th</sup> day always falls on a Monday. Therefore, several things happened at the last year's Republican convention that some of you may remember. There were those that came to the convention saying that they were running for a particular office and were hoping to get the endorsement of the political party. But, they did not achieve that. So, they had to make a very quick decision if they were going to continue to be a candidate because they filed petitions, or if they were going to just accept that they did not get the party's endorsement. They would then concede that they did not get the endorsement. I believe this particular district chair is hoping that by making the filing deadline the 71<sup>st</sup> day, it is *likely* to be ahead of a convention. This district party chair is attempting to get candidates to make a statement ahead of the convention for a statewide office to declare their intent regardless of whether the party gives them the endorsement or not. The bill does some of that, but doesn't necessarily mandate it. An individual, like Tom Campbell, filed petitions with our office well before the convention. He did not get the endorsement for the US House of Representatives, and there were lots of conversations after the convention as to whether or not he was going to withdraw his name as a candidate. He didn't do that until after the filing deadline was over, so his name had to remain on the ballot. There have been some instances in the past. Most specifically, Governor Burgum submitted petitions, came to the convention asking for votes in June, and said my name will be on the ballot regardless of getting the endorsement or not. He did not get the endorsement of the party at the convention. Wayne Stenehjem did. Both names appeared on the primary election ballot. Another instance in which Kevin Kramer was running for the House of Representatives. He completely bypassed the convention altogether. He gathered signatures. We truly speak neutral on this, but this is an attempt by this particular district chair to say, let's make different deadlines, so that people can show what their intent is. Will they respect the wishes of the political party or go ahead to the primary anyway?

**Chairman Kasper:** I see two holes in the logic with this. The first hole is that this has nothing to do with the date that the various political parties set their convention. They could set it in February if they wish. This is just dealing with the 64<sup>th</sup> day, which is the deadline to submit. The argument about pre-convention, to me, doesn't hold any water. The second hole that I see is the candidate can do this, now, anyway. This amendment says that you just have seven days to submit your petition. It is cutting down the time individuals have to make decisions not enhancing it. I think it is worthless.

**Mr. Silrum:** When this district party chair reached out to me about this. His first question was: Could we make it so those who are endorsed, get their names on the ballot two weeks later than the 64<sup>th</sup> day? I had to oppose that because we have only until the 46<sup>th</sup> day to get ballots ready for the military and overseas voters. Then he came back and asked, what if we go the other way and make it that way? From a practical standpoint, the office could deal with that. It doesn't say whether we value it or not. The Secretary of State, Al Jaeger's personal opinion is that he doesn't believe this amendment treats candidates fairly. It treats those that want to get on the ballot by nominating petitions one way (71<sup>st</sup> day), and those who want to get on by certificate endorsement get a completely different filing deadline. He speaks negatively to this. We could make this work from a policy standpoint if that was the wishes of the legislature.

**Rep. B. Koppelman:** It is already nip and tuck to get things ready to be on the ballot. It seems logical, since it is a more arduous task to get ready for those that use the petition

process, than those that use the certificate process, that more time would be in order. I don't know what the magic was about going back seven days. If it could simply go back two days. So, the deadline is on Wednesday; would that be workable? I think the intent was to allow the Secretary of State the same amount of statutory time that they had before, regardless of in-house policy. If we pass this bill, we will be reducing the statutory time by two days that you have to do the work you have to do. Is my understanding wrong?

**Mr. Silrum:** In the bill as it stands without the amendment, it says let's give candidates two days after the filing deadline to withdraw their name from consideration. We chose to look at that to see if it would tighten our deadline or give us more time to do what we need to do. Generally, right now, it is the practice with most of the candidates to file their documents at the very last minute. We welcome it, when petitions come in with signatures ahead of time. It gives us more time to pour over them. But, on the 64<sup>th</sup> day, when people are at our door just before 4:00 PM and turn them in, it is even worse when a political party that is not recognized in the state comes to us before 4:00 PM that day and turns in 7,000 signatures to be recognized as a party. It kicks us into overdrive. We don't get any sleep that night because we are working all night to get everything ready to go. Our general practice right now is that before we go home that 64<sup>th</sup> day, we have made sure that we have vetted all the signatures, we have proofed all the names to make sure that they are spelled correctly, and then we come back the next day and proof them again. By noon on the 63<sup>rd</sup> day we can certify to the counties the names of the candidates that will be on the ballots. By giving us the extra two-day window, it just means our timeline will not be nearly as tight. But, on the other hand it has a negative impact on the counties who generally are getting their information from us a day and a half later.

**Rep. P. Anderson:** Do you think every candidate that thinks they are going to lose the race will go out and get signatures?

**Mr. Silrum:** Speaking from personal experience, my own boss did not get the endorsement of the political party convention last year. He and I had conversations late into the night as to whether he was going to gather all the necessary 3,000 signatures he would need to get his name on the ballot. He would have had to do that between Sunday and before 4:00 PM the next day. He was wrestling with that, and I know for certain that that is why he is not in favor of this amendment. Because we are an office that simply carries out the policies that the legislature sets, we will do what you ask.

Attachment #3 was provided to the committee by the law intern.

No motion was made on the amendment.

**Rep. Schauer move a DO PASS on Engrossed SB 2308.**

**Rep. Laning seconded the motion.**

**A roll call vote was taken: Yes 14 No 0 Absent 0**

**The motion carried.**

**Rep. C. Johnson will carry Engrossed SB 2308.**

Date: 3-14-19  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2308**

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 Rep. Schauer Seconded By Rep. Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Pamela Anderson	X	
Vice Chair Vicky Steiner	X		Rep. Mary Schneider	X	
Rep. Jeff Hoverson	X				
Rep. Craig Johnson	X				
Rep. Daniel Johnston	X				
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr	X				
Rep. Austen Schauer	X				
Rep. Steve Vetter	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. C. Johnson

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

**REPORT OF STANDING COMMITTEE**

**SB 2308, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2308 was placed on the Fourteenth order on the calendar.

**2017 TESTIMONY**

**SB 2308**

ALVIN A. JAEGER  
SECRETARY OF STATE

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SB 2308  
2-1-19  
AH #1

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pg 1

February 1, 2019

**TO:** Chairman Kyle Davison and Members of the Senate Government and Veteran's Affairs Committee

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

**RE:** SB 2308 – Ballot Formats, Write-In Votes, and Certificates of Nomination

Section 1, page 1, line 9: Removes the reference to the County Auditor since statewide and district candidates file with the Secretary of State.

Page 1, lines 10-13: Clarifies that the Secretary of State is responsible for placing statewide, judicial, and legislative district candidates in the appropriate section of the primary election ballot.

Page 1, lines 16-18: Clarifies that the County Auditor is responsible for placing candidates that file with their office on the no-party primary election ballot.

Page 1, lines 19-21: Places into law the practice of allowing candidates to have their name removed from the primary election ballot if they do so by the candidate filing deadline.

Section 2, page 2, line 1: Removes the reference to counting write-in votes from the section caption.

Page 2, line 3 through page 3, line 7: Removes subsections 1 and 2, which reference the tabulation of write-in votes, from section 16.1-12-02.2. The remaining subsections, which are renumbered accordingly, are unchanged and relate to a candidate becoming a recognized write-in candidate.

Section 3, page 4, lines 13-14: Removes the requirement to include the addresses of candidate on the certification that is transmitted to the county auditors. The purpose of this certification is to notify the counties of the list of candidates and is used when proofreading ballots. Contact information for candidates is available to the public as well as county election officials on the Secretary of State's website.

Section 4, page 4, line 19 through page 5, line 9: Creates a new section in chapter 16.1-15 of the North Dakota Century Code, relating to the counting of write-in votes. The content of subsections 1 and 3 of this new section is a rewording of the content removed from section 16.1-12-02.2 in section 2 of this bill. Subsection 1 does not reincorporate the ability of a certified write-in candidate meeting certain thresholds demand that all ballots be reviewed to determine whether the candidates name was written in without filling in the appropriate oval on the ballot. This is being removed because modern voting systems are able to identify these instances without having to manually sort through marked ballots. Subsection 2 of this new section states that if a voter writes-in a candidate whose name is already printed on the ballot, the vote will be counted for the candidate if the voter did not vote for more candidates than allowed in the contest, or already voted for the candidate in a vote for more than one contest. \*

Section 5, page 5, line 29 through page 6, line 1: Removes the reference to a write-in candidates' ability to demand that all ballots be reviewed to determine whether voters improperly cast ballots for the candidate. As stated previously, this will no longer be necessary using new voting system technology.

We request your favorable consideration and a Do Pass recommendation.

February 8, 2019

SB 2309  
2-14-19  
AH #1  
PS1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2308

Page 1, line 3, after the second comma insert "section 16.1-12-07,"

Page 1, line 21, replace "before" with "within forty-eight hours after"

Page 1, line 21, replace "16.1-11-11" with "16.1-11-06"

Page 4, after line 16, insert:

**"SECTION 4. AMENDMENT.** Section 16.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-12-07. If nominee declines - Certificate void.**

Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the person is filed. If the written notice is filed with the appropriate officer ~~before~~within forty-eight hours after four p.m. on the sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer ~~before~~within forty-eight hours after four p.m. on the sixty-fourth day before the election."

Renumber accordingly

*Make copy*

#1  
SB 2308  
3-14-19

ALVIN A. JAEGER  
SECRETARY OF STATE

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

March 14, 2019

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

**FR:** John Arnold, Elections Director, on behalf of Secretary of State Al Jaeger

**RE:** SB 2308 – Ballot Formats, Write-In Votes, and Certificates of Nomination

Section 1, page 1, line 9: Removes the reference to the County Auditor since statewide and district candidates file with the Secretary of State.

Page 1, lines 10-13: Clarifies that the Secretary of State is responsible for placing statewide, judicial, and legislative district candidates in the appropriate section of the primary election ballot.

Page 1, lines 16-18: Clarifies that the County Auditor is responsible for placing candidates that file with their office on the no-party primary election ballot.

Page 1, lines 19-22: Places into law the practice of allowing candidates to have their name removed from the primary election ballot. The request must be made in writing to the appropriate filing office within forty-eight hours of the filing deadline.

Section 2, page 2, line 1: Removes the reference to counting write-in votes from the section caption.

Page 2, line 3 through page 3, line 7: Removes subsections 1 and 2, which reference the tabulation of write-in votes, from section 16.1-12-02.2. Language relating to the tabulation of write-in votes will be inserted into Chapter 15 later in the bill. The remaining subsections, which are renumbered accordingly, are unchanged and relate to a candidate becoming a recognized write-in candidate.

Section 3, page 4, lines 13-14: Removes the requirement to include the addresses of candidate on the certification that is transmitted to the county auditors. The purpose of this certification is to notify the counties of the list of candidates and is used when proofreading ballots. Contact information for candidates is available to the public as well as county election officials on the Secretary of State's website.

Section 4, page 4, lines 22 and 24: Establishes the same forty-eight-hour deadline from section 1 of this bill for candidate to have their name removed from the ballot.

Section 5, page 4, line 28 through page 5, line 20: Creates a new section in chapter 16.1-15 of the North Dakota Century Code, relating to the counting of write-in votes. The content of subsections 1 and 3 of this new section is a rewording of the content removed from section 16.1-12-02.2 in section 2 of this bill. Subsection 1 does not reincorporate the ability of a certified write-in candidate meeting certain thresholds demand that all ballots be reviewed to determine whether the candidates name was written in without filling in the appropriate oval on the ballot. This is being removed because modern voting systems are able to identify these instances without having to manually sort through marked ballots. Subsection 2 of this new section states that if a voter writes-in a candidate whose name is already printed on the ballot, the vote will be counted for the candidate if the voter did not vote for more candidates than allowed in the contest, or already voted for the candidate in a vote for more than one contest.

Section 6, page 6, lines 9-12: Removes the reference to a write-in candidates' ability to demand that all ballots be reviewed to determine whether voters improperly cast ballots for the candidate. As stated previously, this will no longer be necessary using new voting system technology.

We request your favorable consideration and a Do Pass recommendation.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2308

Page 1, line 2, after "sections" insert "16.1-11-06,"

Page 1, line 5, after the comma insert "nominating petitions,"

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.**

1. Every candidate for United States senator, United States representative, a state office, including the office of state senator or state representative, and judges of the supreme and district courts shall present to the secretary of state, ~~between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixty-fourth day before any primary election,~~ either:
  - a. The certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or
  - b. The nominating petition containing the following:
    - (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
    - (2) The name of the party the candidate represents if the petition is for an office under party designation.
    - (3) The signatures of qualified electors, the number of which must be determined as follows:
      - (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.
      - (b) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
      - (c) If the office is under the no-party designation, at least three hundred signatures.

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(d) If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.

(4) The mailing address and the date of signing for each signer.

2. A nominating petition for an office under party designation under this section must be presented to the secretary of state between the first date candidates may begin circulating nominating petitions under this chapter and four p.m. of the seventy-first day before the primary election. A nominating petition for an office under the no-party designation or a certificate of endorsement under this section must be presented to the secretary of state between the first date candidates may begin circulating nominating petitions under this chapter and four p.m. on the sixty-fourth day before the primary election.
3. If ~~the~~a petition or certificate of endorsement is for the office of governor and lieutenant governor, the petition or certificate must contain the names and other information required of candidates for both those offices. If ~~the~~a petition or certificate of endorsement is mailed, it must be in the possession of the secretary of state before ~~four p.m. of the sixty-fourth day before the primary election~~the applicable deadline in subsection 2."

Page 1, line 21, after "the" insert "applicable"

Renumber accordingly

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**CHAPTER 16.1-11  
NOMINATIONS FOR OFFICE - PRIMARY ELECTION**

**16.1-11-01. Primary election - When held - Nomination of candidates - Nomination for special elections.**

On the second Tuesday in June of every general election year, a primary election must be held for the nomination of candidates for the following offices in the years of their regular election: United States senators, member of the United States house of representatives, members of the legislative assembly, elected state officials, judges of the supreme court and district court, county officers, and county commissioners. In special elections the nominations for the officers enumerated in this section must be made as provided in this title.

**16.1-11-02. Presidential preference contest - Time for holding.**

Repealed by S.L. 2003, ch. 174, § 6.

**16.1-11-02.1. Presidential preference contest conduct - Mail ballot election.**

Repealed by S.L. 2003, ch. 174, § 6.

**16.1-11-02.2. Presidential preference contest - Requirements.**

Expired under S.L. 1995, ch. 209, § 13.

**16.1-11-02.3. Presidential preference contest - Rules.**

Repealed by S.L. 2003, ch. 174, § 6.

**16.1-11-03. Political parties authorized to conduct presidential preference contest.**

Repealed by S.L. 2003, ch. 174, § 6.

**16.1-11-03.1. 2000 presidential caucus.**

Expired pursuant to S.L. 1999, ch. 207, § 6.

**16.1-11-04. Presidential preference contest.**

Repealed by S.L. 2003, ch. 174, § 6.

**16.1-11-05. Secretary of state to give notice to county auditor of officers to be nominated.**

Repealed by S.L. 2015, ch. 158, § 5.

**16.1-11-05.1. Participation in endorsements for nomination.**

No person may participate directly or indirectly in the endorsement for nomination of more than one person for each office to be filled, except a person may sign a petition for placement of a candidate's name on the primary ballot:

1. For more than one person for each office for an office not under party designation.
2. For more than one person for each office for an office under party designation only if all the candidates for whom the person signs a petition for an office are running under the same party designation.

Except for persons allowed to seek nomination to more than one office pursuant to section 16.1-12-03, no person may accept endorsement for nomination by certificate or petition to more than one office. No political party is entitled to endorse for nomination by certificate more than one set of nominees.

**16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.**

1. Every candidate for United States senator, United States representative, a state office, including the office of state senator or state representative, and judges of the supreme

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and district courts shall present to the secretary of state, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixty-fourth day before any primary election, either:

- a. The certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or
- b. The nominating petition containing the following:
  - (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
  - (2) The name of the party the candidate represents if the petition is for an office under party designation.
  - (3) The signatures of qualified electors, the number of which must be determined as follows:
    - (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.
    - (b) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
    - (c) If the office is under the no-party designation, at least three hundred signatures.
    - (d) If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.
  - (4) The mailing address and the date of signing for each signer.
- 2. If the petition or certificate of endorsement is for the office of governor and lieutenant governor, the petition or certificate must contain the names and other information required of candidates for both those offices. If the petition or certificate of endorsement is mailed, it must be in the possession of the secretary of state before four p.m. of the sixty-fourth day before the primary election.

**16.1-11-07. Presidential candidates on ballot - Filing time.**

Repealed by S.L. 2007, ch. 197, § 9.

**16.1-11-08. Reference to party affiliation in petition and affidavit prohibited for certain offices.**

No reference may be made to a party ballot or to the party affiliation of a candidate in a petition and affidavit filed by or on behalf of a candidate for nomination in the primary election to an elective county office, the office of judge of the supreme court, judge of the district court, or superintendent of public instruction.

**16.1-11-09. Form of certificate of endorsement.**

A certificate of endorsement filed with the proper officer as provided in this chapter must be in substantially the following form:

CERTIFICATE OF ENDORSEMENT

I, \_\_\_\_\_, do certify that I am the state (district) chairman of the \_\_\_\_\_ political party of the \_\_\_\_\_ legislative district (if appropriate) of the state of North Dakota and that \_\_\_\_\_ (insert name of endorsee), residing at \_\_\_\_\_, was duly endorsed for nomination to the office of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, by the \_\_\_\_\_ political party of the \_\_\_\_\_ legislative district (if appropriate), duly convened and organized in accordance with the bylaws of the \_\_\_\_\_ political party and the laws of this



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which those officers were elected in the petitioner's county. This average must be determined by dividing by two the total vote cast for those offices.

- d. In no case may more than three hundred signatures be required.
- 3. The residential address, mailing address (if different from residential address), and date of signing for each signer. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.

If the petition or certificate of endorsement is mailed, it must be in the possession of the county auditor before four p.m. on the sixty-fourth day before the primary election.

**16.1-11-11.1. Deadline for placing county and city measures on primary, general, or special election ballots.**

Notwithstanding any other provision of law, a county may not submit a measure for consideration of the voters at a primary, general, or special statewide, district, or county election after four p.m. on the sixty-fourth day before the election. A city that has combined its regular or a special election with a primary, general, or special county election, according to the provisions set forth in section 40-21-02, may not submit a measure for consideration of the voters at that election after four p.m. on the sixty-fourth day before the election.

**16.1-11-12. County auditor to place applicant's name on ballot.**

Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-11 by the county auditor and when accompanied by an affidavit as provided in section 16.1-11-10, the county auditor shall place the name of the applicant upon the primary election ballot in the party or appropriate column, as the case may be.

**16.1-11-13. Filing petition or certificate of endorsement when legislative district composed of more than one county - Certificate of county auditor.**

Repealed by S.L. 2013, ch. 175, § 11.

**16.1-11-14. Application by other persons to place name on ballot - Petition - Affidavit.**

Repealed by S.L. 1995, ch. 207, § 20.

**16.1-11-15. Nominating petition not to be circulated prior to January first - Special election.**

No nominating petition provided for in sections 16.1-11-06 and 16.1-11-11 may be circulated or signed prior to January first preceding the primary election. Any signatures to a petition secured before that time may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the time when a petition for the special election must be filed.

**16.1-11-16. Form of nominating petitions.**

- 1. Each nominating petition circulated by candidates for any state, district, county, or other political subdivision office must include or have attached the following information, which must be made available to each signer at the time of signing:
  - a. The candidate's name, address, and telephone number and the title of the office to which the candidate aspires, including the appropriate district number if applicable, or whether the petition is intended for an unexpired term of office if applicable.
  - b. The name of the party the candidate represents if the petition is for an office under party designation.
  - c. The date of the election at which the candidate is seeking nomination or election.
- 2. Only qualified electors of the state, district, county, or other political subdivision, as the case may be, may sign nominating petitions. In addition to signing the person's name, petition signers shall include the following information:
  - a. The date of signing.

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- b. Complete residential address. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.
- c. Complete mailing address if different from residential address.
3. Incomplete signatures or accompanying information of petition signers which do not meet the requirements of this section invalidate such signatures. The use of ditto marks to indicate that the information contained on the previous signature line carries over does not invalidate a signature. Signatures that are not accompanied by a complete date are not invalid if the signatures are preceded and followed by a signature that is accompanied by a complete date.

**16.1-11-17. Filling vacancy in party primary election ballot permissible - Petition - Affidavit.**

Repealed by S.L. 1995, ch. 207, § 20.

**16.1-11-18. Party committees to fill vacancy occurring in nomination for party office.**

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy may not be filled except by petition.
4. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the proper state executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state shall certify the new nomination and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded the certificate, the secretary of state forthwith shall certify to the auditors the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the secretary of state shall certify the new nomination to the various county auditors affected by the change by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new

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nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.

6. A vacancy in a nomination following a primary election may not be filled according to subsection 4 or 5 unless the nominated candidate:
  - a. Dies;
  - b. Would be unable to serve, if elected, as a result of a debilitating illness;
  - c. Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
  - d. Ceases to be qualified to serve, if elected, as otherwise provided by law.

Vacancies to be filled according to the provisions of this section may be filled not later than the sixty-fourth day prior to the election.

**16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of filing.**

If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the sixty-fourth day prior to the primary election, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the sixty-fourth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the sixty-fourth day prior to the primary election, a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the county auditor before four p.m. on the sixty-fourth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors as provided in subdivision c of subsection 2 of section 16.1-11-11. A vacancy in the no-party ballot must be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot.

**16.1-11-20. Certified list of nominees transmitted to county auditor by secretary of state.**

At least fifty-five days before any primary election, the secretary of state shall electronically transmit to each county auditor a certified list containing the names of each person for whom nomination papers have been filed in the secretary of state's office and who are entitled to be voted for at the primary election. A designation of the office for which each is a candidate, and if applicable, the party or principle represented by each must be included.

**16.1-11-21. County auditor to publish sample primary election ballot and notice of time and place of election.**

The county auditor shall publish in the official county newspaper, and if no newspaper is published in the county then in a newspaper published in an adjoining county in the state, the following:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the county auditor. The form of the sample ballot must conform in all respects to the form prescribed for the sample primary ballot by the secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in the county. Absent voters' ballots may not be considered in determining which form of voting is used. Candidates from each legislative district that falls within the boundaries of the county must be listed in a separate box or category

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within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district.

2. The date of the primary election.
3. The hours during which the polls will be open.
4. The statement that the primary election balloting will be held in the regular polling place in each precinct.

The notice must be published in the official county newspaper once each week for two consecutive weeks before the primary election and include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

**16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one political party.**

At the primary election there may be only one ballot for all parties or principles. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot".
2. Each political party or principle having candidates at the primary election must have a separate section on the ballot.
3. At the head of each column must be printed the name of the political party or principle which it represents.
4. Spanning the columns containing the political party ballot and prior to the party names or principle titles must be printed: "In a Political Party Primary Election, you may only vote for the candidates of one political party. This ballot contains the number of political parties or principles and a description of where the political parties or principles are to be found in the columns below. If you vote in more than one political party's section, your Political Party Ballot will be rejected; however, all votes on the No Party and Measure Ballots will still be counted."
5. Immediately below the warning against voting for candidates of more than one political party must be printed: "To vote for the candidate of your choice, you must darken the oval next to the name of that candidate. To vote for a person whose name is not printed on the ballot, you must darken the oval next to the blank line provided and write that person's name on the blank line."
6. The offices specified in section 16.1-11-26 must be arranged in each section with the name of each office in the center of each political party section at the head of the names of all the aspirants for the office.
7. Immediately under the name of each office must be printed: "Vote for no more than \_\_\_\_\_ name (or names)."
8. Immediately preceding and on the same line as the name of each aspirant must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the first section, and the political party or principle casting the next largest vote must have the second section, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one political party the voter's political party ballot will be rejected.

**16.1-11-23. Presidential preference contest ballots.**

Repealed by S.L. 2005, ch. 185, § 18.

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**16.1-11-24. No-party primary ballot - Contents.**

There must be a separate ballot at all primary elections which must be entitled "no-party primary ballot". The names of aspirants for nomination to each office must be arranged on the no-party primary ballot in separate groups in their order. The separate ballot may be on the same paper or electronic ballot, but the list of offices and candidates must be entitled "no-party primary ballot" in a manner to indicate clearly the separation of the no-party list of offices and candidates from the party list of offices and candidates. The names of all candidates for any of the offices mentioned in section 16.1-11-08 must be placed on the ballot without party designation. Immediately under the name of each office must be placed the language: "Vote for no more than \_\_\_\_\_ name (or names)." The number inserted must be the number to be elected to the office at the next succeeding general election.

**16.1-11-25. Preparation, printing, distributing, canvassing, and returning of no-party ballot.**

The no-party ballot must be prepared, printed, distributed, canvassed, and returned in the same manner provided for other primary election ballots.

**16.1-11-26. Order in which names of offices shall appear on ballot.**

The primary election ballot for party nominations shall contain the following offices in the following order under each party column:

1. Congressional:
  - United States senator
  - representative in Congress
2. Legislative:
  - state senator \_\_\_\_\_ district
  - state representative \_\_\_\_\_ district
3. State offices:
  - governor and lieutenant governor
  - secretary of state
  - state auditor
  - state treasurer
  - attorney general
  - insurance commissioner
  - agriculture commissioner
  - public service commissioner
  - tax commissioner

**16.1-11-27. Arrangement of names on ballots.**

Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled. In the event that this determination is no longer possible due to changes in precinct boundaries, the precincts are to be ordered according to the precincts with the greatest voting age population to the least. This information is to be provided by the North Dakota state data center or based on the best available data as determined by the county auditor. On the official ballot used at the election, including electronic voting system ballots, the names of candidates beside or under headings designating each office to be voted for must be alternated in the following manner:

1. The ballot must first be arranged with all the names for each office on the ballot in an order determined by lot by the county auditor and prepared by the county auditor for all state, district, and county offices. The position of names that require alternating under the provisions of this section must be alternated by an algorithm approved by the secretary of state designed to ensure to the extent possible that each name on the ballot for an office is listed in each position order on an equal number of precinct ballots spread across the county. There must be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:

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- a. Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
  - b. Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.
2. Although the names are to be alternated within the offices on the ballot, the name order for an office is to be the same for all ballots within a precinct.

**16.1-11-28. Piling, cutting, and blocking ballots.**

Repealed by S.L. 1999, ch. 209, § 2.

**16.1-11-29. Preparation of ballot.**

Unless otherwise provided in this chapter, the primary election ballot must be prepared as provided in chapter 16.1-06.

**16.1-11-30. Separate section on primary election ballot required for each political party.**

Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate section on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a separate section of the consolidated primary election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixty-fourth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a separate section. Political organizations that are granted ballot access under this section are allowed ballot access only for those offices for which the organization has identified candidates. Regardless of the means by which the petition is delivered, the original must be in the possession of the secretary of state before four p.m. on the sixty-fourth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election, and any political organization that has printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election are entitled to organize according to the requirements of chapter 16.1-03.

**16.1-11-31. Precinct election reports.**

Optical scan ballot tabulation machines must print reports detailing the election results from the precinct after the close of the polls.

**16.1-11-32. Poll lists kept by clerks of elections.**

The clerks of primary elections shall keep either one paper or one electronic list of the names of all persons voting at each primary election. The clerks must return the list, which must

be a part of the records and filed with other election returns. Only one complete list of voters may be kept whether or not a special election is held simultaneously with the primary election.

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**16.1-11-33. Judges of election to run report of primary election - Contents.**

The judges of a primary election in each precinct shall run a separate report for each political party or principle, containing the names of all persons voted for at the primary election, the number of votes cast for each candidate, and for what office. The report must be subscribed by the election judges and must be filed with the returns in the office of the county auditor.

**16.1-11-34. Counting and canvassing of votes in presidential preference contest.**

Repealed by S.L. 2005, ch. 185, § 18.

**16.1-11-35. Nominations by write-in.**

The provisions of this title do not prevent any elector from writing on the paper ballot, or in the case of direct-recording electronic voting system devices, entering by touchscreen or other data entry device, the name of any person for whom the elector desires to vote, and such vote must be counted according to the provisions for the counting of write-in votes found in section 16.1-12-02.2.

**16.1-11-36. Vote required at primary election for nomination.**

A person may not be deemed nominated as a candidate for any office at any primary election unless that person receives a number of votes equal to the number of signatures required, or which would have been required had the person not had the person's name placed on the ballot through a certificate of endorsement, on a petition to have a candidate's name for that office placed on the primary ballot.

**16.1-11-37. Vote required for nomination on no-party ballot - Partisan nominations prohibited.**

The number of persons to be nominated as candidates for any one no-party office must be that number of persons who receive the highest number of votes and who total twice the number of available positions for the office if that many persons are candidates for nomination. Provided, however, that a person may not be deemed nominated 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.

**16.1-11-38. Tie vote determination.**

In case of a tie vote the nominee or nominees must be determined by a drawing of names in the presence of the candidates upon at least five days' notice to each candidate, by the canvassing board or boards concerned, at a time and place designated by the board. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office when a vacancy exists.

**16.1-11-39. Persons nominated in accordance with provisions of chapter eligible as candidates in general election.**

All persons nominated in accordance with the provisions of this chapter are eligible as candidates to be voted for at the ensuing general election.

**16.1-11-40. Primary election and ballot governed by general election provisions.**

Except as otherwise provided in this chapter, the primary election ballot must be arranged, and the primary election must be provided for, conducted, and the expenses thereof paid as in the case of a general election.