

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1260

Introduced by

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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