

Introduced by

Senators Schaible, Sorvaag, Unruh

Representatives Meier, Schmidt

1 A BILL for an Act to amend and reenact section 16.1-12-02.2 of the North Dakota Century  
2 Code, relating to write-in votes.

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

4 **SECTION 1. AMENDMENT.** Section 16.1-12-02.2 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **16.1-12-02.2. Counting of write-in votes - Certificate of candidacy by write-in**  
7 **candidates.**

8 1. An election board or canvassing board may not count or be required to officially report  
9 any write-in vote for any:

10 a. Individual who is required to file a certificate of write-in candidacy under this  
11 section but who has not filed a certificate of candidacy and been certified as a  
12 write-in candidate.

13 b. Fictitious person or individual clearly not eligible to qualify for the office for which  
14 the vote was cast.

15 c. Statement concerning the candidates.

16 d. Name written or printed by the voter for an office that did not also include the  
17 darkening of the oval next to the write-in line, except that a write-in candidate for  
18 a nonfederal office may make a timely written demand to a county canvassing  
19 board to identify and preserve any write-in vote cast for the office sought by the  
20 write-in candidate for canvass by the board. The candidate shall deliver the  
21 demand to the county auditor and a copy to the county recorder no later than  
22 thirty-six hours before the time the county canvassing board is scheduled to  
23 meet. A demand only may be made if the unofficial election results maintained by  
24 the county auditor demonstrate that the write-in candidate's known vote total is

1 within the pertinent percentage limits provided in subsection 1 or 2 of section  
2 16.1-16-01 and a statement to that effect is included in the demand. After delivery  
3 of the ballots as provided by section 16.1-15-08, the canvassing board shall  
4 review the ballots to identify any ballot that contains a write-in vote. The county  
5 canvassing board shall tally and canvass any write-in vote in the same manner  
6 as lawful or qualifying write-in votes if the canvassing board is able to clearly  
7 ascertain the intent of the voter from examining the ballot because the write-in  
8 candidate's name has been written on the ballot opposite the office to be voted  
9 for or because of any other cogent evidence of intent.

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

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

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

26 3. An individual who intends to be a write-in candidate at the general election for  
27 president of the United States shall file an original certificate of write-in candidacy  
28 with the secretary of state by four p.m. on the twenty-first day before the general  
29 election. The certificate must contain the names and addresses of the candidates for  
30 presidential electors for that presidential candidate and a certification of acceptance  
31 signed by each candidate for elector. The candidate shall sign the certificate. The

1 certificate may also include the name and address of a candidate for vice president of  
2 the United States and a certification of acceptance signed by that candidate. The  
3 secretary of state shall prescribe the form of the certificate of write-in candidacy and  
4 the certification of acceptance. Before the thirteenth day before the election, the  
5 secretary of state shall certify the names of the presidential candidates and the  
6 presidential electors to each county auditor as write-in candidates.

7 4. An individual who intends to be a write-in candidate for any legislative district office  
8 shall file aan original certificate of write-in candidacy with the election officer with  
9 whom the candidate would otherwise file to have the candidate's name placed on the  
10 ballot. The certificate must contain the name, address, and signature of the candidate.  
11 Certificates must be filed by four p.m. on the fourth day before the election. When the  
12 candidate files a certificate, the candidate also shall file the contribution statement  
13 provided for under section 16.1-08.1-02 complete through the day of the filing of the  
14 certificate.

15 5. An individual who intends to be a write-in candidate for any other multicounty, county,  
16 city, or school office shall file an original certificate of write-in candidacy with the  
17 election officer with whom the candidate would otherwise file to have the candidate's  
18 name placed on the ballot. The certificate must contain the name, address, and  
19 signature of the candidate. Certificates must be filed by four p.m. on the fourth day  
20 before the election.

21 6. A certificate under this section is not required when: for every write-in candidate for  
22 public office.

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

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

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

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