

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

HOUSE BILL NO. 1159
(Judiciary Committee)
(At the request of the Secretary of State)

AN ACT to create and enact a new section to chapter 16.1-12 of the North Dakota Century Code, relating to the time allowed for independent candidates to circulate nominating petitions; to amend and reenact sections 16.1-12-02.2 and 16.1-12-04 of the North Dakota Century Code, relating to election boards counting write-in votes, certificates of write-in candidacy, write-in candidates seeking more than one office, and the secretary of state and county auditors certifying independent nominations to one another; and to repeal section 16.1-12-05 of the North Dakota Century Code, relating to the secretary of state certifying independent nominations to the county auditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-12-02.2 of the 1995 Supplement to 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 ~~is not required to~~ may not count any write-in vote for any:
 - a. Person 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, nonperson, or person clearly not eligible to qualify for the office for which the vote was cast.
 - c. Statement concerning the candidates.
2. A person who intends to be a write-in candidate for president of the United States at the presidential preference contest or for statewide or judicial district office at any 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 contest or election. The certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the contest or election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.
3. A person 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. A person who intends to be a write-in candidate for any ~~other~~ legislative district office shall file a certificate of write-in candidacy with the election officer with whom the candidate would otherwise file to have the candidate's name placed on the ballot. 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. ~~A certificate under this subsection is not required when no names will appear on the ballot for that office.~~

5. A certificate under this section 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. When certificates of write-in candidacy are not required under this chapter, all write-in votes must be counted.

A person required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots.

SECTION 2. A new section to chapter 16.1-12 of the North Dakota Century Code is created and enacted as follows:

Nominating petition for an independent candidate not to be circulated more than ninety days prior to filing time. A petition provided for in this chapter may not be circulated or signed more than ninety days before the date when any petition must be filed under the provisions of this chapter. Any signatures to a petition obtained more than ninety days before that date may not be counted.

SECTION 3. AMENDMENT. Section 16.1-12-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-12-04. Certificates of nomination - Time and place of filing.

1. Certificates of nomination for nominees for offices to be filled by the qualified electors of the entire state must be filed with the secretary of state. Not less than fifty-five days before any general or special election to fill any statewide office, the secretary of state shall certify to each county auditor the names and addresses of the persons nominated for statewide office according to this chapter as shown on the certificates of nomination filed in the secretary of state's office.
2. Certificates of nomination for nominees for county offices and legislative offices must be filed with the county auditor of the county in which the candidate resides. The county auditor shall certify the names and addresses of legislative candidates filing certificates of nomination according to this chapter to the secretary of state. When a legislative district is composed of more than one county, the county auditor shall certify to the county auditors of the other counties comprising the legislative district the names and addresses of the candidates filing the certificates of nomination.
3. Certificates of nomination must, without regard to the means of delivery, be filed and in the actual possession of the appropriate officer not later than four p.m. on the sixtieth day prior to the day of election.
4. The secretary of state and the county auditors shall keep on file for six months all certificates of nomination filed with them under this chapter and all certificates of nomination must be open to public inspection during regular business hours.

SECTION 4. REPEAL. Section 16.1-12-05 of the North Dakota Century Code is repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1159.

House Vote: Yeas 94 Nays 0 Absent 3

Senate Vote: Yeas 47 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State