

Testimony on Sibia Amendment to H.492

Good morning, Rep. Laura Sibia, independent representative for the new in 2022 reapportioned Windham-2 District and the towns of Dover, Jamaica, Somerset, Stratton and Wardsboro

Mr. Chair and members of the Committee, thank you for the time to hear about my amendment to your committees' miscellaneous elections bill [H.429](#)

Let me start by acknowledging the work you have done to further accommodate disabled, military and overseas early voters in Section 10 of your bill by proposing a means of electronic signing of the signing certificate required of early voters and in Section 11 of your bill proposing a means and process for counting the electronic ballots of those disabled, military and overseas voters.

I'm a mom of an Army nurse who has voted in every election since her commissioning, and on more than one occasion our Town Clerk's Office has reassured her via email – on election day - that her mailed-in ballot had finally arrived and would be counted.

Thank you for these proposals.

This morning I offer two instances of amendment to your bill for the committee to consider.

In the first instance, I am proposing to eliminate the so called "sore loser law"

I'll remind the committee of the testimony they heard from former independent legislature Barbara Murphy last week who noted these provisions limit voter choices and who also reminded the committee of an important and overlooked aspect of our elections –that the primary elections are for the parties to choose their candidate; the general election is for the people to choose their candidate.

In Section 1, the Committee's bill proposes a change to existing law.

[17 V.S.A Chapter 49](#) describes how a candidate is nominated to appear on the General Election Ballot.

In existing law, candidates can appear on the General Election Ballot in one of three ways:

1. by winning a party's primary election
2. by nomination of a party
3. or by running as an independent

The Committees Amendment seeks to amend [Subchapter 2§ 2381: Nomination by Party Committee](#)

This section of existing law tells us when and how **parties may nominate** candidates to appear on the General Election ballot:

(a) A candidate may also be nominated and have the candidate's name printed on the general election ballot in accordance with the provisions set forth in this subchapter, in the following instances:

(1) In case of a vacancy on the general election ballot occasioned by death, removal, or withdrawal of a candidate,

the failure of a major political party to nominate a candidate by primary;

(2) In case a minor political party desires to nominate a candidate for any office for which major political parties nominate candidates by primary or for the offices of President and Vice President of the United States;

(3) In case of nomination for the office of justice of the peace, in the event that such nomination has not already been made by caucus as provided in section 2413 of this chapter.

This section of law also tells us that **only major and minor parties may nominate** candidates in this way.

(b) In no event may any committee nominate a candidate or candidates for statewide office under this subchapter unless the political party has town committees organized in at least 10 towns in this State in accordance with procedures in chapter 45 of this title. (Added 1977, No. 269 (Adj. Sess.), § 1; amended 1979, No. 198 (Adj. Sess.), § 3; 1979, No. 200 (Adj. Sess.), § 26; 1985, No. 196 (Adj. Sess.), § 24; 2015, No. 30, § 5, eff. May 26, 2015; 2017, No. 50, § 14.)

The Committee **proposes to amend** this section of law **to ban a candidate who loses a major party primary from being nominated to appear on the general election ballot pursuant to this subchapter by a committee of any party other than the party for which the candidate appeared on the primary ballot.**

Primary polarization – most partisan voters. Losing a primary means you were unable to secure a party nomination by vote of its most ideological voters. Does this mean you should be excluded from the people's General Election choices?

Given that nearly 50% of American voters consider themselves to be independent, I would argue no. And I would argue that while it's appropriate and helpful for parties to cultivate candidates to be their standard bearers, it is inappropriate for the parties to try and limit voters' choices after they have selected their candidates in primary elections.

The Committee then proposes to limit the means for an independent to appear on the General election ballot **by banning a candidate who loses a major party primary for any office shall not appear on the general election ballot as an independent candidate for the same office for which the candidate lost in the primary election.**

What if this is the top choice of general election voters? How will we know if they are not on the General Election Ballot?

In addition, candidates that decline the primary nomination they won, automatically provide an opportunity for the party to nominate another candidate.

The committee proposals do not increase voter choice, do not trust the voters to make their own choices, and attempt to give parties power to limit candidates past their primary.

I would ask the committee to strike these sections in its floor amendment.

In addition to leaving the process for running independent after losing a party primary or declining the party nomination, **I would ask that we move the date for independents seeking to file for the General Election to the second Friday after the Primary Election.** This is to provide all candidates equitable ballot access after the primary election, not just candidates that sought or received a party nomination.

The primary is for the parties, the general election is for the people. The party must not act as gatekeepers to the general election ballot for those who choose not to run with their nomination.