SENATE BILL 100

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO ELECTIONS; ALLOWING A MINOR POLITICAL PARTY TO NOMINATE FOR ELECTIVE OFFICE A PERSON CERTIFIED AS A MAJOR POLITICAL PARTY'S CANDIDATE FOR THE SAME OFFICE; ALLOWING A CANDIDATE'S NAME TO APPEAR MORE THAN ONCE ON A BALLOT IF THE CANDIDATE IS THE NOMINEE FOR A MAJOR POLITICAL PARTY AND ONE OR MORE MINOR POLITICAL PARTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 1-1-26 NMSA 1978 (being Laws 2019, Chapter 212, Section 13) is amended to read:

"1-1-26. PETITIONS--NOMINATIONS--REQUIREMENTS BEFORE SIGNED BY VOTERS--INVALIDATED PETITIONS.--

A. The following information shall be listed in the appropriate space at the top of a nominating petition before
the petition has been signed by a voter:

(1) the candidate's name as it appears on the candidate's certificate of registration;
(2) the address where the candidate resides;
(3) the office sought by the candidate;
(4) if the office sought is a districed office or a division within a judicial district or has been assigned a position number for purposes of the election, the district, division or position number of the office sought;
(5) if the office sought will be on the general election ballot, the party [affiliation of the candidate] whose nomination the candidate is seeking or that the candidate is unaffiliated with any qualified political party; and

(6) if the office sought will be nominated at a political party primary, the party affiliation of voters permitted to sign the petition.

B. With or without a showing of fraud or a reasonable opportunity for fraud, a nominating petition page, including all signatures on the petition page, shall be invalid if any of the information required by Subsection A of this section is not listed on the petition before the petition page is signed by a voter or if any of the required information is subsequently changed in any way."

SECTION 2. Section 1-4-16 NMSA 1978 (being Laws 1969, .219130.1
Chapter 240, Section 72, as amended) is amended to read:

"1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT BE MADE.--

A. [No] A designation of party affiliation shall not be made or changed on an existing certificate of registration at any time during which registration is closed.

B. Every person appearing as a candidate on the primary or general election ballot shall be a candidate only under the name and party affiliation designation appearing on the person's existing certificate of registration on file in the county clerk's office on the date of the secretary of state's general election proclamation; provided that a person who is affiliated with a major political party on the person's certificate of registration and who is a major political party candidate on the general election ballot may also appear on the general election ballot as a minor political party candidate for the same office."

SECTION 3. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended) is amended to read:

"1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION--DESIGNATED NOMINEES.--

A. If the rules of a minor political party require nomination by political convention:

(1) the chair and secretary of the state political convention shall certify to the secretary of state
the names of their party's nominees for United States senator, United States representative, all elective state offices, legislative offices elected from multicounty districts, [the public regulation commission] all elective judicial officers in the judicial department and all offices representing a district composed of more than one county; and

(2) the chair and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county.

B. The names certified to the secretary of state shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by nominating petitions containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the state for statewide offices; and
(2) in the district for offices other than statewide offices.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.
C. The names certified to the county clerk shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by a nominating petition containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the county for countywide offices; and
(2) in the district for offices other than countywide offices.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

D. Except as provided in Subsection F of this section or in the case of a political party certified in the year of the election, persons certified as candidates shall be members of that party on the day the secretary of state issues the general election proclamation.

E. Except as provided in Subsection F of this section or when a political party is certified in the year of the general election, and after the day the secretary of state issues the general election proclamation, a person certified as a candidate shall be:

(1) a member of that party not later than the
date the political party filed its rules and qualifying
petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

(2) a resident in the district of the office
for which the person is a candidate on the date of the
secretary of state's proclamation for the general election or
in the case of a person seeking the office of United States
senator or United States representative, a resident within New
Mexico on the date of the secretary of state's proclamation for
the general election. No person who is a candidate for a party
in a primary election may be certified as a candidate for a
different party in the general election in the same election
cycle.

F. A minor political party may nominate a person
who is affiliated with a major political party on the person's
certificate of registration and who is a certified candidate
for that major political party to also be the minor political
party's certified candidate for the same office on the general
election ballot. The nominee certification and nominating
petition required by this section shall be accompanied by a
declaration of candidacy by the minor political party's nominee
affirming acceptance of the minor political party's nomination.

[F-] G. No voter shall sign a petition prescribed
by this section for more persons than the number of candidates
necessary to fill the office at the next ensuing general
election."
SECTION 4. Section 1-8-3.1 NMSA 1978 (being Laws 2014, Chapter 40, Section 6 and Laws 2014, Chapter 81, Section 6) is amended to read:

"1-8-3.1. NOMINATING PETITION FOR CANDIDATE OF AN UNQUALIFIED STATE POLITICAL PARTY--QUALIFICATION AS AN INDEPENDENT CANDIDATE.--The declaration of candidacy and petition signatures submitted to the proper filing officer by a candidate for nomination as a minor party candidate shall be counted toward the requirements for qualification as an independent candidate for the same office in the same election if the candidate's party files for, but does not obtain status as, a qualified political party in that election cycle. To qualify as an independent candidate, the candidate must meet all requirements for an independent candidate in Section 1-8-45 NMSA 1978 and submit the required number of petition signatures for an independent candidate as prescribed in Section 1-8-51 NMSA 1978. No candidate may circulate petitions for candidacy for more than one major political party in an election cycle."

SECTION 5. Section 1-8-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 167, as amended) is amended to read:

"1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A CANDIDATE.--

A. No person shall become a candidate for nomination by a political party or have the person's name printed on the primary election ballot unless the person's
record of voter registration shows:

(1) affiliation with that political party on
the date of the secretary of state's general election
proclamation; provided that a person who is affiliated with a
major political party on the person's certificate of
registration and who is a certified candidate for that major
political party may also be the candidate for one or more minor
political parties for the same office; and

(2) residence in the district of the office
for which the person is a candidate on the date of the
secretary of state's general election proclamation or in the
case of a person seeking the office of United States senator or
United States representative, residence within New Mexico on
the date of the secretary of state's general election
proclamation.

B. A voter may challenge the candidacy of a person
seeking nomination by a political party for the reason that the
person does not meet the requirements of Subsection A of this
section by filing a petition in the district court within ten
days after the last day for filing a declaration of candidacy
or a statement of candidacy for convention designation. The
district court shall hear and render a decision on the matter
within ten days after the filing of the petition. The decision
of the district court may be appealed to the supreme court
within five days after the decision is rendered. The supreme
.219130.1

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court shall hear and render a decision on the appeal forthwith."

SECTION 6. Section 1-8-27 NMSA 1978 (being Laws 1969, Chapter 240, Section 172, as amended) is amended to read:

"1-8-27. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--MANNER OF FILING.--Each declaration of candidacy, by nominating petition or by preprimary convention designation, shall be delivered for filing in person by the candidate therein named or by a person acting, by virtue of written authorization, solely on the candidate's behalf. The proper filing officer shall not accept for filing more than one declaration of candidacy from any one individual, except that candidates who seek but fail to receive preprimary convention designation shall file a declaration of candidacy by nomination, according to provisions of the Primary Election Law, to have their names placed on the primary election ballot and a certified major political party candidate may file a declaration of candidacy to be a minor political party's candidate for the same office on the general election ballot."

SECTION 7. Section 1-10-7 NMSA 1978 (being Laws 1977, Chapter 222, Section 30, as amended) is amended to read:

"1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE--EXCEPTIONS.--

A. In a primary [or general] election, [no] a candidate's name shall not appear more than once on the ballot,
except in the case of a candidate who is also a candidate for
president or vice president of the United States.

B. In a general election, a candidate's name shall
not appear more than once on the ballot, except in the case of
a candidate who is:

(1) also a candidate for president or vice
president of the United States; or

(2) the candidate for a major political party
and one or more minor political parties for the same office.

C. In a regular local election, a candidate's
name:

(1) shall not appear more than once to be
elected to any position with the same local government; and

(2) may appear more than once to be elected to
any position with different local governments."

SECTION 8. A new section of Chapter 1, Article 12 NMSA
1978 is enacted to read:

"[NEW MATERIAL] CONDUCT OF ELECTION--COUNTING AND
TALLYING--CANDIDATES NOMINATED BY MORE THAN ONE POLITICAL
PARTY.--Votes cast for a candidate who was nominated for the
same office by a major political party and one or more minor
political parties shall be tallied separately by political
party as in the normal course of tallying election results, and
then the votes tallied for the candidate shall be combined.
The combined total of votes shall be the final tally of the
votes received by the candidate and shall be certified as the result of the election for that candidate."

SECTION 9. Section 1-12-37 NMSA 1978 (being Laws 1973, Chapter 358, Section 2, as amended) is amended to read:

"1-12-37. CONDUCT OF ELECTION--VOTING MACHINES--VERIFICATION OF RETURNS.--

A. Two election officials of different parties shall verify that the counter settings registered on the machine-printed returns are legible.

B. The machine-printed returns shall show:

(1) the number of votes cast for each candidate; provided that in the case of a candidate who was nominated for the same office by a major political party and one or more minor political parties, the machine-printed returns shall show the votes cast for the candidate by political party; and

(2) the number of votes cast for and against any constitutional amendment or other question submitted.

C. The return shall be signed by each member of the [precinct] election board and two watchers of opposing interest, if there be such."

SECTION 10. REPEAL.--Laws 2020, Chapter 9, Section 2 is repealed.