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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/23/2007

SPONSOR Park LAST UPDATED \_\_\_\_\_ HB 1269

SHORT TITLE Political Party Candidate Nomination SB \_\_\_\_\_

ANALYST Moser

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with: House bill 1099.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Secretary of State (SOS)

Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

House Bill 1269 amends sections of the Election Code to generally remove requirements that persons be members of the political parties nominating them as candidates for political office and that persons signing nominating petitions be members of political parties.

Specifically, the bill:

1. Removes NMSA Section 1-4-16B which currently requires that every person appearing as a candidate on the primary or general election ballot be a candidate only under the name and party affiliation designation appearing on his existing certificate of registration on file in the county clerk's office on the date of the governor's proclamation of a primary election;
2. Amends NMSA Section 1-8-2D to allow a person to be certified as the nominee of a minor political party without being a member of that party before the day the governor issues the primary election proclamation if the state committee of the party has authorized the nomination of that person by a majority vote; and the rules of the party, if

- any, do not prohibit the acceptance of nominations;
3. Removes the requirement in NMSA Section 1-8-8B that a vacancy on the general election ballot be filled by a nominee who belongs to the same political party as the original nominee;
  4. Removes the requirement in NMSA Section 1-8-18A(1) that a person nominated by a political party for a primary election be a member of that political party on the date of the governor's proclamation for the primary election;
  5. Amends NMSA Section 1-8-21.1C to prohibit state conventions of major political parties from taking only one ballot upon candidates for each office to be filled and removes the requirement that the certificate of designation filed by the party with the Secretary of State certify that the candidate has been a member of that political party for the period of time required by the Election Code;
  6. Amends NMSA Section 1-8-27 removing prohibitions against a proper filing officer accepting for filing more than one declaration of candidacy from any one individual and requiring that candidates who seek but fail to receive preprimary convention designation file a declaration of candidacy by nomination in order to have their names placed on the primary election ballot;
  7. Amends NMSA Section 1-8-29 relating to the Declaration of Candidacy Form to remove the certification that is a member of a certain political party and has not changed that party affiliation subsequent to the governor's proclamation calling the primary election;
  8. Removes the prohibition in NMSA Section 1-8-31 against counting a signature on a nominating petition unless the person signing is a member of the candidates political party ten days prior to the filing of the nominating petition;
  9. Revises nominating petition signature requirements set forth in NMSA Section 1-8-33 to remove references to a “candidates’ party” and replace them with references to “the party whose nomination the candidate is seeking”;
  10. Amends NMSA Section 1-8-36.1 to allow a person to be a write-in candidate if they are qualified for the office they are seeking, without regard to political party affiliation;
  11. Amends NMSA Section 1-10-7 to allow a persons name to appear on the ballot more than once, for each party that has nominated them;
  12. Adds a new section providing that for purposes of determining which candidate has been elected, votes cast for the same candidate under multiple party names shall be totaled. For all other purposes, including party qualification, votes cast under different party names shall be counted and recorded separately. A voter who attempts to vote for the same candidate under multiple party lines shall have the voter's vote counted as if the voter had voted for that candidate on a line without any party name; provided that a vote for the same candidate under multiple party names shall not be treated as an overvote;
  13. Repeals NMSA Section 1-8-19 which prohibits a person who has been a candidate for the nomination of a major political party in the primary election from having his name printed on the ballot at the next succeeding general election except under the party name of the party designated on his declaration of candidacy filed for such primary election.

## **SIGNIFICANT ISSUES**

The AGO advises that this bill appears to adopt a modified version of the concept of “fusion voting”, proposed by the Progressive America Fund, Inc., and its National Open Ballot Project. According to the corporate web site, “fusion voting” addresses the perceived “problem” of third parties encouraging votes for candidates who can't win, or acting as "spoilers". Under the concept of “fusion voting”, as apparently incorporated in this bill, different parties can nominate

the same candidate, yet keep their own place on the ballot. Voters have the option of voting for their preferred candidates on the line of any party that has endorsed them. Votes for each party are tallied separately, but added together to determine the winner. New Mexico is considered by that organization to be a “direct ban state”, whose statutes directly ban “fusion” around major party candidates by requiring party affiliation. <http://www.nmef.org/fusionoverview.html>.

The bill would affect candidates in both primary and general elections.

This bill appears to allow political parties to nominate candidates for election who are not members of those parties. It may have the unintended effect of allowing one person to run for several offices during the same election. It would allow one person to run for election as a representative of several different political parties. It would also allow any registered voter to sign a nominating petition for a candidate, regardless of their political party affiliation. The bill would also require state political party conventions to take more than one ballot upon candidates for each office to be filled. Write-in candidates need not belong to a political party.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 1099 also amends NMSA Section 1-8-36.1 relating to write-in candidates.

GM/mt