

1 SENATE BILL 178

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO ELECTIONS; PROVIDING THAT MAJOR PARTY CANDIDATES
12 FOR LIEUTENANT GOVERNOR BE NOMINATED BY THE POLITICAL PARTY;
13 REQUIRING A SINGLE NOMINATING PETITION FOR JOINT CANDIDATES FOR
14 GOVERNOR AND LIEUTENANT GOVERNOR FOR NON-MAJOR PARTY
15 CANDIDATES.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of Chapter 1, Article 8 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] MAJOR POLITICAL PARTIES--NOMINATING
21 PROCEDURES--CANDIDATES FOR LIEUTENANT GOVERNOR.--

22 A. A major political party that in the primary
23 election has nominated a candidate for governor shall designate
24 the party's nominee for lieutenant governor for the next
25 succeeding general election. The designation shall be made

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1 following the final certification of the results of a primary
2 election and shall be filed with the secretary of state no
3 later than ninety days before the general election.

4 B. The designee made pursuant to Subsection A of
5 this section shall be required to meet the qualifications set
6 forth in Subsection A of Section 1-8-18 NMSA 1978.

7 C. The process for making the designation pursuant
8 to Subsection A of this section shall be as provided for in the
9 rules of the respective party; provided that, at a minimum, the
10 committee making the designation shall include the members of
11 the state central committee of the party.

12 D. Designation of a party's candidate for
13 lieutenant governor shall be made and filed with the proper
14 filing officer using a form approved by the secretary of state.

15 E. When the name of a designated lieutenant
16 governor nominee is filed as provided in this section, the name
17 shall be placed on the general election ballot as the joint
18 candidate listed with the party's candidate for governor."

19 **SECTION 2.** Section 1-8-1 NMSA 1978 (being Laws 1969,
20 Chapter 240, Section 151, as amended by Laws 2014, Chapter 40,
21 Section 2 and by Laws 2014, Chapter 81, Section 2) is amended
22 to read:

23 "1-8-1. NOMINATING PROCEDURES--MAJOR POLITICAL PARTIES--
24 MINOR POLITICAL PARTIES.--

25 A. Any major political party in New Mexico, as

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1 defined in Section 1-7-7 NMSA 1978, shall nominate its
2 candidates, other than its presidential, vice presidential and
3 lieutenant gubernatorial candidates, by secret ballot at the
4 next succeeding primary election as prescribed in the Primary
5 Election Law.

6 B. Any minor political party in New Mexico, as
7 defined in Section 1-7-7 NMSA 1978, shall nominate candidates
8 for public office in the manner prescribed in its party rules
9 and regulations and according to the provisions of the Election
10 Code."

11 SECTION 3. Section 1-8-2 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 152, as amended by Laws 2014, Chapter 40,
13 Section 3 and by Laws 2014, Chapter 81, Section 3) is amended
14 to read:

15 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
16 CONVENTION--DESIGNATED NOMINEES.--

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

19 (1) the chair and secretary of the state
20 political convention shall certify to the secretary of state
21 the names of their party's nominees for United States senator,
22 United States representative, joint candidates for governor and
23 lieutenant governor, all other elective state offices,
24 legislative offices elected from multicounty districts, the
25 public regulation commission, all elective judicial officers in

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1 the judicial department and all offices representing a district
2 composed of more than one county; and

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

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

15 (1) in the state for statewide offices; and

16 (2) in the district for offices other than
17 statewide offices.

18 The petition shall contain a statement that the voters
19 signing the petition are residents of the area to be
20 represented by the office for which the person being nominated
21 is a candidate. The names of the joint candidates for governor
22 and lieutenant governor shall appear on the same nominating
23 petition.

24 C. The names certified to the county clerk shall be
25 filed on the twenty-third day following the primary election in

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1 the year of the general election and shall be accompanied by a
2 nominating petition containing the signatures of voters
3 totaling not less than one percent of the total number of votes
4 cast for governor at the last preceding general election at
5 which a governor was elected:

6 (1) in the county for countywide offices; and

7 (2) in the district for offices other than
8 countywide offices.

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

13 D. Except in the case of a political party
14 certified in the year of the election, persons certified as
15 candidates shall be members of that party on the day the
16 governor issues the primary election proclamation.

17 E. When a political party is certified in the year
18 of the general election, and after the day the governor issues
19 the primary election proclamation, a person certified as a
20 candidate shall be:

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

24 (2) a resident in the district of the office
25 for which the person is a candidate on the date of the

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1 governor's proclamation for the primary election or in the case
2 of a person seeking the office of United States senator or
3 United States representative, a resident within New Mexico on
4 the date of the governor's proclamation for the primary
5 election. No person who is a candidate for a party in a
6 primary election may be certified as a candidate for a
7 different party in the general election in the same election
8 cycle.

9 F. No voter shall sign a petition prescribed by
10 this section for more persons than the number of candidates
11 necessary to fill the office at the next ensuing general
12 election."

13 SECTION 4. Section 1-8-3 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 153, as amended) is amended to read:

15 "1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER
16 METHODS.--If the rules and regulations of a minor political
17 party require nomination by a method other than a political
18 convention:

19 A. the state [~~chairman~~] chair and the governing
20 board of the state party shall certify to the secretary of
21 state the names of their party's nominees for United States
22 senator, United States representative, joint candidates for
23 governor and lieutenant governor, all other elective state
24 offices, legislative offices elected from multicounty
25 districts, the public regulation commission, all elective

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1 judicial officers in the judicial department and all offices
2 representing a district composed of more than one county;

3 B. the county [~~chairman~~] chair and the governing
4 board of the county party shall certify to the county clerk the
5 names of their party's nominees for elected county offices and
6 for legislative offices elected from a district located wholly
7 within one county or that is composed of only one county; and

8 C. the names of such nominees shall be filed in the
9 same time and manner prescribed by the Election Code for
10 convention-designated nominees of minor political parties, and
11 each list of names certified shall be accompanied by the
12 petition containing a list of signatures and addresses of
13 voters as prescribed for convention-designated nominees."

14 SECTION 5. Section 1-8-17 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 166, as amended) is amended to read:

16 "1-8-17. PRIMARY ELECTION LAW--OFFICES AFFECTED--
17 QUESTIONS PROHIBITED.--

18 A. The Primary Election Law applies to major
19 political party nominations for all offices that are to be
20 filled at the general election with the exception of the
21 designation of candidates for lieutenant governor and
22 presidential electors.

23 B. The Primary Election Law does not apply to the
24 election of persons to fill municipal, school district or
25 special district offices, nor does it apply to special

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1 elections to fill vacancies in any office filled at the general
2 election. No bond issue or other question shall be voted upon
3 at any primary election."

4 SECTION 6. Section 1-8-21 NMSA 1978 (being Laws 1996,
5 Chapter 20, Section 3, as amended) is amended to read:

6 "1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON
7 PRIMARY BALLOT.--

8 A. All candidates seeking primary election
9 nomination to a statewide office or the office of United States
10 representative shall file declarations of candidacy with the
11 proper filing officer. Candidates shall file nominating
12 petitions at the time of filing their declarations of
13 candidacy. Candidates who seek, but do not obtain, preprimary
14 convention designation by a major political party may file new
15 declarations of candidacy and nominating petitions pursuant to
16 Section 1-8-33 NMSA 1978.

17 B. Except as provided in Subsection C of this
18 section, candidates for any other office listed in Subsection C
19 of Section [1-8-13C] 1-8-13 NMSA 1978 shall have their names
20 placed on the primary election ballot by filing declarations of
21 candidacy and nominating petitions with the proper filing
22 officer.

23 C. Candidates for county office shall have their
24 names placed on the primary election ballot by filing
25 declarations of candidacy and paying filing fees or filing the

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1 proper paupers' statements at the time of filing declarations
2 of candidacy with the proper filing officer.

3 D. The provisions of this section shall not apply
4 to the office of lieutenant governor."

5 SECTION 7. Section 1-8-21.1 NMSA 1978 (being Laws 1993,
6 Chapter 55, Section 11, as amended) is amended to read:

7 "1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION.--

8 A. State conventions of major political parties may
9 designate candidates for nomination to statewide office or the
10 office of United States representative.

11 B. No state convention for designating candidates
12 shall be held later than the second Sunday in March preceding
13 the primary election, and delegates to the convention shall be
14 elected according to state party rules filed in the office of
15 the secretary of state.

16 C. The state convention shall take only one ballot
17 upon candidates for each office to be filled. Every candidate
18 receiving twenty percent or more of the votes of the duly
19 elected delegates to the convention for the office to be voted
20 upon at the ensuing primary election shall be certified to the
21 secretary of state as a convention-designated nominee for that
22 office by the political party. Certification shall take place
23 no later than 5:00 p.m. on the first Tuesday succeeding the
24 state convention.

25 D. The certificate of designation submitted to the

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1 secretary of state shall state the name of the office for which
2 each person is a candidate, each candidate's name and address
3 and the name of the political party that each candidate
4 represents and certification that the candidate has been a
5 member of that political party for the period of time required
6 by the Election Code.

7 E. The provisions of this section shall not apply
8 to the office of lieutenant governor."

9 SECTION 8. Section 1-8-36.1 NMSA 1978 (being Laws 1981,
10 Chapter 156, Section 1, as amended) is amended to read:

11 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

12 A. Write-in candidates are permitted in the primary
13 election only for the offices of United States representative,
14 members of the legislature, district judges, district
15 attorneys, public regulation commission, public education
16 commission, magistrates and any office voted upon by all voters
17 of the state in the primary election.

18 B. A person may be a write-in candidate only for
19 nomination by the major political party with which the person
20 is affiliated as shown by the certificate of registration, and
21 such person shall have the qualifications to be a candidate in
22 the primary election for the political party for which the
23 person is a write-in candidate.

24 C. A person desiring to be a write-in candidate for
25 one of the offices listed in Subsection A of this section in

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1 the primary election shall file with the proper filing officer
2 a declaration of intent to be a write-in candidate. Such
3 declaration of intent shall be filed between 9:00 a.m. and 5:00
4 p.m. on the third Tuesday in March.

5 D. A write-in vote shall be counted and canvassed
6 only if:

7 (1) the name written in is the name of a
8 declared write-in candidate and shows two initials and last
9 name; first name, middle initial or name and last name; first
10 and last name; or the full name as it appears on the
11 declaration of intent to be a write-in candidate and
12 misspellings of the above combinations that can be reasonably
13 determined by a majority of the members of the precinct board
14 to identify a declared write-in candidate; and

15 (2) the name is written on the proper line
16 provided on the ballot for write-in votes for the office for
17 which the candidate has filed a declaration of intent and the
18 voter has followed the directions for casting a vote for the
19 write-in candidate.

20 E. At the time of filing the declaration of intent
21 to be a write-in candidate, the write-in candidate shall be
22 considered a candidate for all purposes and provisions relating
23 to candidates in the Election Code, including the obligations
24 to report pursuant to the Campaign Reporting Act, except that
25 the write-in candidate's name shall not be printed on the

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1 ballot.

2 F. No unopposed write-in candidate shall have the
3 write-in candidate's nomination certified unless the write-in
4 candidate receives at least the number of write-in votes in the
5 primary election as the write-in candidate would need
6 signatures on a nominating petition pursuant to the
7 requirements set out in Section 1-8-33 NMSA 1978.

8 G. A write-in vote shall be cast by writing in the
9 name and following the directions for casting a vote for the
10 write-in candidate. As used in this section, "write-in" does
11 not include the imprinting of any name by rubber stamp or
12 similar device or the use of pre-printed stickers or labels."

13 SECTION 9. Section 1-8-45 NMSA 1978 (being Laws 1977,
14 Chapter 322, Section 1, as amended) is amended to read:

15 "1-8-45. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED
16 STATES REPRESENTATIVE SPECIAL ELECTIONS--DEFINITION.--

17 A. As used in the Election Code, an independent
18 candidate means a person who:

19 (1) is a candidate for any state or county
20 office to be voted on at a general election:

21 (a) whose certificate of voter
22 registration shows affiliation with no qualified political
23 party on the date of the governor's proclamation for the
24 primary election and, if applicable, shows residence on the
25 date of the governor's proclamation for the primary election in

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1 the district or county of the office for which the person is a
2 candidate; and

3 (b) who has complied with the nomination
4 procedures set forth in the Election Code for independent
5 candidates;

6 (2) is a candidate for United States senator
7 or United States representative:

8 (a) whose certificate of voter
9 registration, if any, shows affiliation with no qualified
10 political party on the date of the governor's proclamation for
11 the primary election;

12 (b) who will be a resident of New Mexico
13 when elected; and

14 (c) who has complied with the nomination
15 procedures set forth in the Election Code for independent
16 candidates; or

17 (3) is a candidate for the office of president
18 or vice president who:

19 (a) has complied with the nomination
20 procedures set forth in the Election Code for independent
21 candidates; and

22 (b) was not a major party candidate for
23 the same office on the primary election ballot.

24 B. No person shall become an independent candidate
25 for any office, and the person's name shall not be printed on

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1 the general election ballot, unless the person complies with
2 the requirements of this section.

3 C. No person shall become an independent candidate
4 for governor unless, at the time of filing a declaration of
5 candidacy, the person also files a declaration of candidacy
6 designating the joint candidate for lieutenant governor. The
7 signatures collected for governor shall count toward
8 qualification of the joint candidacies and petition signatures
9 shall not be separately required for the lieutenant
10 gubernatorial candidate.

11 [~~G-~~] D. Any voter may challenge the candidacy of
12 any person seeking to become an independent candidate for any
13 office for the reason that the person does not meet the
14 requirements of this section or because the nominating
15 petitions, if required, do not meet the requirements of Section
16 1-8-31 NMSA 1978 by filing a petition in the district court
17 within ten days after the last day for filing a declaration of
18 candidacy. The district court shall hear and render a decision
19 on the matter within ten days after the filing of the petition.
20 The decision of the district court may be appealed to the
21 supreme court within five days after the decision is rendered.
22 The supreme court shall hear and render a decision on the
23 appeal forthwith."

24 **SECTION 10. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is January 1, 2019.

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