

SENATE BILL 178

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

INTRODUCED BY

Mark Moores and Daniel A. Ivey-Soto

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ELECTIONS; PROVIDING THAT MAJOR PARTY CANDIDATES FOR LIEUTENANT GOVERNOR BE NOMINATED BY THE HJC → ~~Sf1~~ → ~~POLITICAL PARTY PARTY'S GUBERNATORIAL NOMINEE~~ ← Sf1 ← HJC HJC → ~~POLITICAL PARTY~~; ← HJC REQUIRING A SINGLE NOMINATING PETITION FOR JOINT CANDIDATES FOR GOVERNOR AND LIEUTENANT GOVERNOR FOR NON-MAJOR PARTY CANDIDATES.

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

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

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

A. A major political party that in the primary election has nominated a candidate for governor shall designate HJC→Sf1→as←Sf1←HJC the party's nominee for lieutenant governor for the next succeeding general election HJC→Sf1→the individual selected by the party's gubernatorial nominee←Sf1←HJC. The designation shall be made following the final certification of the results of a primary election and shall be filed with the secretary of state no later than ninety days before the general election.

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

HJC→Sf1→C. The process for making the designation pursuant to Subsection A of this section shall be as provided for in the rules of the respective party; provided that, at a minimum, the committee making the designation shall include the members of the state central committee of the party.←Sf1←HJC

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

HJC→Sf1→D←G←Sf1.←HJC HJC→D.←HJC Designation of a

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

HJC→Sf1→E-D←Sf1.←HJC HJC→E.←HJC When the name of a designated lieutenant governor nominee is filed as provided in this section, the name shall be placed on the general election ballot as the joint candidate listed with the party's candidate for governor."

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

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

A. Any major political party in New Mexico, as defined in Section 1-7-7 NMSA 1978, shall nominate its candidates, other than its presidential, vice presidential and lieutenant gubernatorial candidates, by secret ballot at the next succeeding primary election as prescribed in the Primary Election Law.

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

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SECTION 3. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended by Laws 2014, Chapter 40, Section 3 and by Laws 2014, Chapter 81, Section 3) 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, joint candidates for governor and lieutenant governor, all other 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

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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. The names of the joint candidates for governor and lieutenant governor shall appear on the same nominating petition.

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

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represented by the office for which the person being nominated is a candidate.

D. Except 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 governor issues the primary election proclamation.

E. When a political party is certified in the year of the general election, and after the day the governor issues the primary 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 governor's proclamation for the primary 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 governor's proclamation for the primary 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. No voter shall sign a petition prescribed by this section for more persons than the number of candidates

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necessary to fill the office at the next ensuing general election."

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

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

A. the state [~~chairman~~] chair and the governing board of the state party shall certify to the secretary of state the names of their party's nominees for United States senator, United States representative, joint candidates for governor and lieutenant governor, all other 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;

B. the county [~~chairman~~] chair and the governing board of the county party 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; and

C. the names of such nominees shall be filed in the same time and manner prescribed by the Election Code for convention-designated nominees of minor political parties, and

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each list of names certified shall be accompanied by the petition containing a list of signatures and addresses of voters as prescribed for convention-designated nominees."

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

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

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

B. The Primary Election Law does not apply to the election of persons to fill municipal, school district or special district offices, nor does it apply to special elections to fill vacancies in any office filled at the general election. No bond issue or other question shall be voted upon at any primary election."

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

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

A. All candidates seeking primary election nomination to a statewide office or the office of United States representative shall file declarations of candidacy with the

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proper filing officer. Candidates shall file nominating petitions at the time of filing their declarations of candidacy. Candidates who seek, but do not obtain, preprimary convention designation by a major political party may file new declarations of candidacy and nominating petitions pursuant to Section 1-8-33 NMSA 1978.

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

C. Candidates for county office shall have their names placed on the primary election ballot by filing declarations of candidacy and paying filing fees or filing the proper paupers' statements at the time of filing declarations of candidacy with the proper filing officer.

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

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

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

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

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

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

D. The certificate of designation submitted to the secretary of state shall state the name of the office for which each person is a candidate, each candidate's name and address and the name of the political party that each candidate represents and certification that the candidate has been a member of that political party for the period of time required by the Election Code.

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

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

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

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

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

C. A person desiring to be a write-in candidate for one of the offices listed in Subsection A of this section in the primary election shall file with the proper filing officer a declaration of intent to be a write-in candidate. Such declaration of intent shall be filed between 9:00 a.m. and 5:00 p.m. on the third Tuesday in March.

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

(1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the

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declaration of intent to be a write-in candidate and misspellings of the above combinations that can be reasonably determined by a majority of the members of the precinct board to identify a declared write-in candidate; and

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

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

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

G. A write-in vote shall be cast by writing in the name and following the directions for casting a vote for the write-in candidate. As used in this section, "write-in" does

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not include the imprinting of any name by rubber stamp or similar device or the use of pre-printed stickers or labels."

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

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

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

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

(a) whose certificate of voter registration shows affiliation with no qualified political party on the date of the governor's proclamation for the primary election and, if applicable, shows residence on the date of the governor's proclamation for the primary election in the district or county of the office for which the person is a candidate; and

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

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

(a) whose certificate of voter registration, if any, shows affiliation with no qualified political party on the date of the governor's proclamation for

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the primary election;

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

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

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

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

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

B. No person shall become an independent candidate for any office, and the person's name shall not be printed on the general election ballot, unless the person complies with the requirements of this section.

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

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[G-] D. Any voter may challenge the candidacy of any person seeking to become an independent candidate for any office for the reason that the person does not meet the requirements of this section or because the nominating petitions, if required, do not meet the requirements of Section 1-8-31 NMSA 1978 by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy. 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 court shall hear and render a decision on the appeal forthwith."

SRC→~~SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2019.~~←SRC

SRC→SECTION 10. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 3, 4, 8 and 9 of this act is May 16, 2018.

B. The effective date of the provisions of Sections 1, 2 and 5 through 7 of this act is January 1, 2019.←SRC