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SENATE BILL 100

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

INTRODUCED BY

Gerald Ortiz y Pino

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

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1 the petition has been signed by a voter:

2 (1) the candidate's name as it appears on the
3 candidate's certificate of registration;

4 (2) the address where the candidate resides;

5 (3) the office sought by the candidate;

6 (4) if the office sought is a districted
7 office or a division within a judicial district or has been
8 assigned a position number for purposes of the election, the
9 district, division or position number of the office sought;

10 (5) if the office sought will be on the
11 general election ballot, the party [~~affiliation of the~~
12 ~~candidate~~] whose nomination the candidate is seeking or that
13 the candidate is unaffiliated with any qualified political
14 party; and

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

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

25 SECTION 2. Section 1-4-16 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 72, as amended) is amended to read:

2 "1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT
3 BE MADE.--

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

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

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

20 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION--
21 DESIGNATED NOMINEES.--

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

24 (1) the chair and secretary of the state
25 political convention shall certify to the secretary of state

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1 the names of their party's nominees for United States senator,
2 United States representative, all elective state offices,
3 legislative offices elected from multicounty districts, [~~the~~
4 ~~public regulation commission~~] all elective judicial officers in
5 the judicial department and all offices representing a district
6 composed of more than one county; and

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

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

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

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

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1 C. The names certified to the county clerk shall be
2 filed on the twenty-third day following the primary election in
3 the year of the general election and shall be accompanied by a
4 nominating petition containing the signatures of voters
5 totaling not less than one percent of the total number of votes
6 cast for governor at the last preceding general election at
7 which a governor was elected:

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

9 (2) in the district for offices other than
10 countywide offices.

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

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

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

25 (1) a member of that party not later than the

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1 date the political party filed its rules and qualifying
2 petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

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

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

22 ~~[F.]~~ G. No voter shall sign a petition prescribed
23 by this section for more persons than the number of candidates
24 necessary to fill the office at the next ensuing general
25 election."

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1 SECTION 4. Section 1-8-3.1 NMSA 1978 (being Laws 2014,
2 Chapter 40, Section 6 and Laws 2014, Chapter 81, Section 6) is
3 amended to read:

4 "1-8-3.1. NOMINATING PETITION FOR CANDIDATE OF AN
5 UNQUALIFIED STATE POLITICAL PARTY--QUALIFICATION AS AN
6 INDEPENDENT CANDIDATE.--The declaration of candidacy and
7 petition signatures submitted to the proper filing officer by a
8 candidate for nomination as a minor party candidate shall be
9 counted toward the requirements for qualification as an
10 independent candidate for the same office in the same election
11 if the candidate's party files for, but does not obtain status
12 as, a qualified political party in that election cycle. To
13 qualify as an independent candidate, the candidate must meet
14 all requirements for an independent candidate in Section 1-8-45
15 NMSA 1978 and submit the required number of petition signatures
16 for an independent candidate as prescribed in Section 1-8-51
17 NMSA 1978. No candidate may circulate petitions for candidacy
18 for more than one major political party in an election cycle."

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

21 "1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A
22 CANDIDATE.--

23 A. No person shall become a candidate for
24 nomination by a political party or have the person's name
25 printed on the primary election ballot unless the person's

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1 record of voter registration shows:

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

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

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

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

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

5 "1-8-27. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
6 MANNER OF FILING.--Each declaration of candidacy, by nominating
7 petition or by preprimary convention designation, shall be
8 delivered for filing in person by the candidate therein named
9 or by a person acting, by virtue of written authorization,
10 solely on the candidate's behalf. The proper filing officer
11 shall not accept for filing more than one declaration of
12 candidacy from any one individual, except that candidates who
13 seek but fail to receive preprimary convention designation
14 shall file a declaration of candidacy by nomination, according
15 to provisions of the Primary Election Law, to have their names
16 placed on the primary election ballot and a certified major
17 political party candidate may file a declaration of candidacy
18 to be a minor political party's candidate for the same office
19 on the general election ballot."

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

22 "1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE--
23 EXCEPTIONS.--

24 A. In a primary [~~or general~~] election, [~~no~~] a
25 candidate's name shall not appear more than once on the ballot,

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1 except in the case of a candidate who is also a candidate for
2 president or vice president of the United States.

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

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

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

10 ~~[B-]~~ C. In a regular local election, a candidate's
11 name:

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

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

16 SECTION 8. A new section of Chapter 1, Article 12 NMSA
17 1978 is enacted to read:

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

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1 votes received by the candidate and shall be certified as the
2 result of the election for that candidate."

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

5 "1-12-37. CONDUCT OF ELECTION--VOTING MACHINES--
6 VERIFICATION OF RETURNS.--

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

10 B. The machine-printed returns shall show:

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

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

19 [~~and~~]

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

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