

LFC Requester:

Esquibel, RubyAnn

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 1/27/2026 *Check all that apply:*
Bill Number: HB 135 Original Correction
Amendment Substitute

Sponsor: Matthew McQueen **Agency Name and Code** Secretary of State - 370
Person Writing
Short Title: ELECTION NOMINATING PETITION CHANGES **Analysis:** Lindsey Bachman
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

Total	\$50,500				Nonrecurring	General
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(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 135 amends the election code to allow voters to sign more than one nominating petition for the same office, to reduce the number of signatures required on petitions for independent candidates and to allow unaffiliated voters to sign nominating petitions in a primary election.

FISCAL IMPLICATIONS

HB 135’s changes to who is eligible to sign nominating petitions for candidates in a primary election as well as the changes that would allow voters to sign more than one nominating petition would require significant technical enhancements to the state’s statutorily required online petition gathering platform and voter registration and election management system.

The implementation of the required changes to the states’ voter registration and election management system are estimated to be \$22,500, and required technical enhancements to the online petition platform are estimated to cost \$28,000.

The SOS will have additional administration duties associated with system maintenance, education and compliance. The full funding of the SOS’s budget request is necessary to keep up with the volume of work associated with all of the statutory duties supported by the office.

SIGNIFICANT ISSUES

Background Information

2025 data from the National Conference of State Legislatures¹ indicates that all states, except for Alaska, utilize a nominating petition process for at least some candidates seeking placement on election ballots. Furthermore, New Mexico is one of twenty states that has petition signature requirements for independent candidates.

Currently, nominating petition requirements in New Mexico exist for candidates for United States representative, statewide offices (including supreme court justice and court of appeals

judge), all state legislative offices, district court judge, metropolitan court judge, district attorney, magistrate court judge, and public education commission.

1. “Petition Requirements to Run for the State Legislature,” National Conference of State Legislatures. <https://www.ncsl.org/elections-and-campaigns/petition-requirements-to-run-for-the-state-legislature>

New Mexico also has pre-primary convention designation for the major parties included in its primary elections. Candidates who seek pre-primary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least two percent (2%) of the total vote of the candidate's party in the state or congressional district (based on the total votes cast for all of the party's candidates for governor, at the last preceding primary election in which the party's candidate for governor was nominated), or the following number of voters, whichever is greater: for statewide offices, two hundred and thirty (230) voters; and for congressional candidates, seventy-seven (77) voters. Refer to Section 1-8-33 (A)(B), NMSA 1978.

Nominating petition signatures for major party candidates for any other office to be voted on at the primary election shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters from the candidate's party equal to at least the greater of:

- State senator, three percent (3%) of the total vote of the candidate's party in the district or seventeen (17) voters.
- State representative, three percent (3%) of the total vote of the candidate's party in the district or ten (10) voters.
- District attorney and district judge, two percent (2%) of the total vote of the candidate's party in the district or fifteen (15) voters.
- Metropolitan judge, two percent (2%) of the total vote of the candidate's party in the district or ten (10) votes.
- Magistrate judge, two percent (2%) of the total vote of the candidate's party in the district or ten (10) votes.
- Public education commission, two percent (2%) of the total vote of the candidate's party in the district or twenty-five (25) voters Refer to Section 1-8-33 (C), NMSA 1978.

Independent candidates do not run in New Mexico's primary elections. Instead, independent candidates are required to file to run for office in the general election on the twenty-third (23) day following the primary election in the year of the general election and are required to file a nominating petition containing the signatures of registered voters of the state or district. Independent candidates may collect signatures from voters who may or may not be affiliated with a political party in New Mexico. Pursuant to 1-8-51 NMSA 1978, nominating petitions for an independent candidate for:

- president of the United States shall be signed by a number of voters equal to the number of signatures required to form a new political party.
- United States senator or any other statewide elective office shall be signed by a number of voters equal to at least two percent (2%) of the total number of votes cast in the state.
- United States representative shall be signed by a number of voters equal to at least two percent (2%) of the total number of votes cast in the district.
- a member of the legislature, district judge, district attorney or county office shall be signed by a number of voters equal to at least two percent (2%) of the total number of votes cast

in the district, division or county, as the case may be; provided that for the public education commission, nominating petitions shall be signed by at least two-thirds of the number of signatures that would otherwise be required, and for a judicial office, nominating petitions shall be signed by at least two-thirds of the number of signatures that would otherwise be required.

Regarding the bill's proposal to allow voters to sign more than one nominating petition for the same office

Comprehensive national data comparing states on this issue was not readily available. Like New Mexico, some states, Arizona and Minnesota, do not permit the signing of multiple nominating petitions for the same office, unless there are multiple candidates may be elected to such office. Other states like Colorado, Texas and Michigan simply broadly prohibit signing the petition of more than one candidate for the same office.

The United States Supreme Court in *Munro v. Socialist Workers Party*, 479 U.S. 189, 193 (1986) held that “[s]tates have a right to require candidates to make a preliminary showing of substantial support in order to qualify for a place on the ballot. *Jennes v. Fortson*, 403 U.S. 431; *American Party of Texas v White*, 415 U.S. 767. Pp. 193-194.” .” It is unclear whether or not permitting voters to sign more than one nominating petition would result in a candidate showing “substantial support” over another. It is ultimately within the legislature’s purview to determine what level of support is to be required.

Regarding the bill's proposal to reduce the number of signatures required on petitions for independent candidates

As one can see, independent candidates share a 2% threshold of their partisan counterparts. The difference in scope is that independent candidates must collect enough signatures to meet a 2% calculation based on the voter participation of total voters registered in an area, while most major party candidates must collect enough signatures to meet a 2% calculation based on the voter participation of voters registered with their party in an area. The obvious further difference between the two groups of candidates is that major party candidates must participate in a primary election while independent candidates do not.

Equity in candidate ballot access is an important facet of the democratic process, and, as with all changes that impact that process, the SOS believes it is essential to evaluate nominating petition signature thresholds in the full context of the electoral process.

Regarding the bill's proposal to allow unaffiliated voters to sign nominating petitions in a primary election

Again, comprehensive national data comparing states on this issue was not readily available. Nineteen states, including New Mexico, require that signatures on petitions for major party candidates count only if they are from registered party voters in the district, according to the

National Conference of State Legislatures. Some states also have requirements that voters shall have been a part of a party for a period of time prior to signing a nominating petition for candidate of that party in partisan elections.

It's apparent that each legal challenge to primary election structures is complex and doesn't really lend itself to broad-brush analysis. Each case is determined by an assessment of whether the requirement is a "severe" burden on the political party's 1st Amendment associational rights; if it is found to be severe, then the law must be "narrowly tailored to a compelling state interest"—which is the highest level of constitutional scrutiny. If it's found to be a burden that is less than severe, then the standard for scrutiny is lessened by degrees. Again, the United States Supreme Court in *Munro v. Socialist Workers Party*, 479 U.S. 189, 193 (1986) held that a state has an important interest in requiring "a significant modicum of support before printing the name of a... candidate on the ballot." Thus, it is within the legislature's purview to determine what level of support is to be required.

In 2025, the New Mexico legislature passed legislation that allows a voter who chooses not to register with a political party to select a major party ballot and vote in the primary election without updating the political party on their voter registration.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

The bill has an effective date of July 1, 2026. However, an effective date of September 1, 2027 better aligns with existing statutory requirements.

Pursuant to state statute, independent candidates running for election are required to file for the 2026 general election on June 25, 2026, between the hours of 9:00 a.m. and 5:00 p.m. Should this bill pass, these provisions would not have an impact on New Mexico's elections until the 2028 primary and general elections. The Secretary of State is statutorily required to make the 2028 primary election nominating petition forms available to the public in October of 2027.

A later effective date would also more appropriately align with the need for the Secretary of State's Office to seek the required funding for the technical enhancements as well as for voter and candidate education. The Office does not have the resources for implementation of HB 135 in FY 26, nor has it requested funding as part of its FY 27 request.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

The addition of "If a person signing has signed one petition more than once, only one signature from that person shall count toward the total number of signatures required for that candidate for office." to 1-15A-6 NMSA 1978 is redundant as that language is a part of existing statute state in 1-1-7.2 (B) (2) NMSA 1978.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Secretary of State's Office will continue to administer elections in accordance with state and federal laws.

AMENDMENTS