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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/2007

SPONSOR Barela LAST UPDATED \_\_\_\_\_ HB 1099

SHORT TITLE Allow Certain Write-In Candidates. SB \_\_\_\_\_

ANALYST Moser

### APPROPRIATION (dollars in thousands)

| Appropriation |      | Recurring<br>or Non-Rec | Fund<br>Affected |
|---------------|------|-------------------------|------------------|
| FY07          | FY08 |                         |                  |
|               | NFI  |                         |                  |
|               |      |                         |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Attorney General's Office (AGO)  
 Secretary of State

### SUMMARY

#### Synopsis of Bill

House Bill 1099 amends NMSA Section 1-8-36.1 of the Election Code governing write-in candidates in primary elections to delete obsolete references to the State Board of Education and to allow write-in candidates for Public Regulation Commission in those elections. The bill additionally:

- deletes requirements that a person file a declaration of intent to be a write-in candidate in a primary election with the proper filing officer;
- requires that all ballots provide a space for the voter to write in the name of any person for whom the voter wants to cast a vote for that office;
- deletes current provisions establishing requirements for writing in the name of a declared write-in candidate, and those provisions which prevent a write-in candidate in the primary election from being certified as a candidate in the general election unless the candidate receives at least the number of write-in votes in the primary election as he would need signatures on a nominating petition.
- amends NMSA Section 1-11-2 to eliminate the requirement that the proclamation issued by the county clerk giving notice of an election contain the names and party af-

- affiliations of write-in candidates;
- amends NMSA Section 1-12-19.1 to eliminate similar requirements and prohibitions applicable to write-in candidates in general and special elections. It eliminates current requirements for filing declarations of intent to be candidates, and those governing writing in the name of a declared write-in candidate in those elections. It deletes provisions which prevent an unopposed write-in candidate from having their election certified unless the candidate receives at least the number of write-in votes as the candidate would need signatures on a nominating petition. It deletes the prohibition against a person being a write-in candidate in the general election who was a candidate in the primary election immediately prior to the general election.

## SIGNIFICANT ISSUES

The AGO indicates that this bill would significantly relax requirements in current state law governing write-in candidates. Current law requires that write-in candidates for primary, general, and special elections file declarations of intent to be candidates with the “proper filing officer” who is either the Secretary of State or county clerk, depending upon the office sought. State law also requires that the name written in on a ballot be the name of a declared write-in candidate and show 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 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. This bill would delete those requirements.

The Secretary of State “...takes no position on whether or not a write-in candidate should have to declare this intention in advance of the election.” Concern was expressed however regarding the removal of campaign finance reporting requirements from these candidates. The Secretary of State indicates that write-in candidates sometimes expend great sums of money to announce their name and convince votes to write in their names. The Secretary of State feels that all candidates should disclose contributions and be subject to campaign finance reporting laws. In addition, by removing the minimum vote requirements for unopposed write-in candidates, a person could be elected to office with minimal support and no public knowledge of the campaign.

## AMENDMENTS

The Secretary recommends the following amendments:

1-8-36.1(E): ~~At the time of filing the declaration of intent to be a write-in candidate, the~~ A write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Election Code, including all obligations to report pursuant to the Campaign Reporting Act, except that ~~he~~ write-in candidates shall not be entitled to have ~~his~~ their name printed on the ballot.

1-8-36.1(F): No ~~unopposed~~ write-in candidate shall have his a nomination certified unless ~~he~~ the candidate receives at least the number of write-in votes in the primary election as ~~he~~ the candidate would need signatures on a nominating petition pursuant to the requirements set out in Section 1-8-33 NMSA 1978.

1-12-19.1(C): ~~At the time of filing the declaration of intent to be a write-in candidate, the~~ A

write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Election Code, including all obligations to report pursuant to the Campaign Reporting Act, except that ~~he~~ write-in candidates shall not be entitled to have ~~his~~ their name printed on the ballot.

1-12-19.1(G): No ~~unopposed~~ write-in candidate shall have an election certified unless the candidate receives at least the number of write-in votes as the candidate would need signatures on a nominating petition pursuant to the requirements set out in Section 1-8-33 NMSA 1978.

GM/mt