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## FISCAL IMPACT REPORT

SPONSOR Ortiz y Pino ORIGINAL DATE 02/02/21  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Major & Minor Party Ballot Nominations SB 100  
ANALYST Glenn

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$10.0 - \$30.0		\$10.0 - \$30.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 79

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

Secretary of State's Office (SOS)

Office of the Attorney General (NMAG)

### **SUMMARY**

#### Synopsis of Bill

Senate Bill 100 amends the Election Code to permit a certified major political party candidate to file a declaration of candidacy to be a minor political party's candidate for the same office on the general election ballot.

The bill makes conforming amendments to the Election Code's provisions governing the procedures for nominating and certifying candidates, and to allow a person to appear on the ballot as both the major party candidate and the minor party candidate. Votes cast for the candidates would be counted separately by each political party and then combined to become the final tally of the votes received by the candidate.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

## **FISCAL IMPLICATIONS**

SOS states that SB100, if enacted, would require changes to the state’s canvass and results reporting system in order to provide combined totals for candidates appearing more than once on the ballot. Estimated system enhancement costs are in the range of \$10-\$30 thousand.

## **SIGNIFICANT ISSUES**

An electoral system like that authorized by the bill, which allow two or more parties to nominate the same candidate, is commonly known as “fusion voting.” According to SOS, proponents of fusion voting systems contend the systems increase the voice of minor parties without sacrificing their ability to impact elections.

SOS states that additional amendments are necessary to make existing law consistent with SB100. For example, Section 1-8-19, which is not amended by SB100, allows a candidate’s name to appear only once on a ballot.

SOS also notes that the major political parties may need to adopt conforming language in their rules to allow their candidates to associate with other parties and to otherwise align the rules with SB100’s changes in the law.

NMAG states that while the state Supreme Court has upheld the constitutionality of New Mexico’s closed primary system, which requires voting consistent with one’s party registration during primary elections, the Court also has acknowledged that the legislature has authority to change the electoral system. *See Crum v. Duran*, 2017-NMSC-013, ¶ 20 (stating that, “Our holding in this case should in no way be interpreted as foreclosing the possibility that a different primary system adopted by the Legislature—an open primary, for example—could also be constitutional.”)

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB100 relates to HB79, which amends the Election Code to allow voters not registered with a major political party to vote in primary elections.

BG/sb