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SENATE BILL 572

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

William H. Payne

AN ACT

RELATING TO ELECTIONS; AMENDING MULTIPLE SECTIONS OF THE
ELECTION CODE TO MOVE THE DATE FOR HOLDING PRIMARIES TO THE
FIRST TUESDAY IN MARCH OF EACH EVEN-NUMBERED YEAR; CHANGING THE
DATE FOR DESIGNATION OF CANDIDATES, DECLARATIONS OF CANDIDACY,
FILING DEADLINE FOR WRITE-IN CANDIDATES, WITHDRAWAL OF
CANDIDACY AND COMMITTEE NOMINATIONS TO CORRESPOND TO AN EARLIER
PRIMARY DATE.

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

SECTION 1. Section 1-8-11 NMSA 1978 (being Laws 1969,
Chapter 240, Section 160) is amended to read:

"1-8-11. PRIMARY ELECTION LAW--TIME OF HOLDING PRIMARY.--
A primary election shall be held in each county in this state
on the first Tuesday in [~~June~~] March of each even-numbered
year."

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1 SECTION 2. Section 1-8-12 NMSA 1978 (being Laws 1969,
2 Chapter 240, Section 161, as amended) is amended to read:

3 "1-8-12. PRIMARY ELECTION LAW--PROCLAMATION.--The
4 governor shall issue a public proclamation calling a primary
5 election to be held in each county and precinct of the state on
6 the date prescribed by the Primary Election Law. The
7 proclamation shall be filed with the secretary of state on the
8 last Monday in [~~January~~] October of each [~~even-numbered~~] odd-
9 numbered year."

10 SECTION 3. Section 1-8-21.1 NMSA 1978 (being Laws 1993,
11 Chapter 55, Section 11) is amended to read:

12 "1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION.--

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

16 B. No state convention for designating candidates
17 shall be held later than the third Sunday in [~~March~~] January
18 preceding the primary election, and delegates to the convention
19 shall be elected according to state party rules filed in the
20 office of the secretary of state.

21 C. The state convention shall take only one ballot
22 upon candidates for each office to be filled. Every candidate
23 receiving twenty percent or more of the votes of the duly
24 elected delegates to the convention for the office to be voted
25 upon at the ensuing primary election shall be certified to the

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1 secretary of state as a convention-designated nominee for that
2 office by the political party. Certification shall take place
3 no later than 5:00 p.m. on the first Tuesday succeeding the
4 state convention.

5 D. The certificate of designation submitted to the
6 secretary of state shall state the name of the office for which
7 each person is a candidate, [~~his~~] the name and address and the
8 name of the political party that the candidate represents and
9 shall certify that the candidate has been a member of that
10 political party for the period of time required by the Election
11 Code."

12 SECTION 4. Section 1-8-26 NMSA 1978 (being Laws 1975,
13 Chapter 295, Section 12, as amended) is amended to read:

14 "1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS
15 NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

16 A. Declarations of candidacy by preprimary
17 convention designation for any statewide office or for the
18 office of United States representative and declarations of
19 candidacy for retention of a justice of the supreme court or
20 judge of the court of appeals shall be filed with the proper
21 filing officer on the second Tuesday in [~~February~~] November of
22 each [~~even-numbered~~] odd-numbered year between the hours of
23 9:00 a.m. and 5:00 p.m.

24 B. Declarations of candidacy for any other office
25 and declarations of candidacy for retention for all affected

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1 district judicial offices shall be filed with the proper
2 filing officer on the third Tuesday of [~~March~~] January of
3 each even-numbered year between the hours of 9:00 a.m. and
4 5:00 p.m.

5 C. Certificates of designation shall be submitted
6 to the secretary of state on the first Tuesday following the
7 preprimary convention at which the candidate's designation
8 took place between the hours of 9:00 a.m. and 5:00 p.m.

9 D. No candidate's name shall be placed on the
10 ballot until the candidate has been notified in writing by
11 the proper filing officer that the declaration of candidacy,
12 the petition, if required, and the certificate of
13 registration of the candidate on file are in proper order and
14 that the candidate, based on those documents, is qualified to
15 have the candidate's name placed on the ballot. The proper
16 filing officer shall mail the notice no later than 5:00 p.m.
17 on the Tuesday following the filing date.

18 E. If a candidate is notified by the proper
19 filing officer that the candidate is not qualified to have
20 the candidate's name appear on the ballot, the candidate may
21 challenge that decision by filing a petition with the
22 district court within ten days of the notification. The
23 district court shall hear and render a decision on the matter
24 within ten days after the petition is filed."

25 SECTION 5. Section 1-8-30 NMSA 1978 (being Laws 1973,

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1 Chapter 228, Section 4, as amended) is amended to read:

2 "1-8-30. PRIMARY ELECTION LAW--DECLARATION OF
3 CANDIDACY--NOMINATING PETITION--FILING AND FORM.--

4 A. As used in the Primary Election Law,
5 "nominating petition" means the authorized form used for
6 obtaining the required number of signatures of voters, which
7 is signed on behalf of the person wishing to become a
8 candidate for a political office in the primary election
9 requiring a nominating petition.

10 B. In making a declaration of candidacy, the
11 candidate at the same time shall file a nominating petition,
12 which shall be on the form prescribed by law.

13 C. The nominating petition shall be on paper
14 approximately eight and one-half inches wide and eleven
15 inches long with numbered lines for signatures spaced
16 approximately three-eighths of an inch apart and shall be in
17 the following form:

18 "NOMINATING PETITION

19 I, the undersigned, a registered voter of the county of
20 _____, New Mexico, and a member of the
21 _____ party, hereby nominate _____,
22 who resides at _____ in the county of
23 _____, New Mexico, for the party nomination for the
24 office of _____, to be voted for at the
25 primary election to be held on the first Tuesday of [June]

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1 March, 20 _____, and I declare that I am a resident of the
2 state, district, county or area to be represented by the
3 office for which the person being nominated is a candidate.
4 I also declare that I have not signed, and will not sign, any
5 nominating petition for more persons than the number of
6 candidates necessary to fill such office at the next ensuing
7 general election.

- 8 1. _____
9 (usual (name printed (address as (city or
10 signature) as registered) registered) rt. no.)
- 11 2. _____
12 (usual (name printed (address as (city or
13 signature) as registered) registered) rt. no.)."

14 D. In [~~October~~] July of odd-numbered years, the
15 secretary of state shall furnish to each county clerk a
16 sample of a nominating petition form, a copy of which shall
17 be made available by the county clerk upon request of any
18 candidate.

19 E. When more than one sheet is required for a
20 petition, each of the sheets shall be in the form prescribed
21 by this section and all sheets shall be firmly secured by a
22 staple or other suitable fastening."

23 SECTION 6. Section 1-8-36.1 NMSA 1978 (being Laws
24 1981, Chapter 156, Section 1, as amended) is amended to read:

25 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN

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1 CANDIDATES.--

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

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

14 C. A person desiring to be a write-in candidate
15 for one of the offices listed in Subsection A of this section
16 in the primary election shall file with the proper filing
17 officer a declaration of intent to be a write-in candidate.
18 Such declaration of intent shall be filed before 5:00 p.m. on
19 the second Tuesday in [~~March~~] January.

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

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

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

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

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

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

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

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1 does not include the imprinting of any name by rubber stamp
2 or similar device or the use of preprinted stickers or
3 labels."

4 SECTION 7. Section 1-8-44 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 182, as amended) is amended to read:

6 "1-8-44. PRIMARY ELECTION LAW--WITHDRAWAL OF
7 CANDIDATES.--A candidate seeking to withdraw from a primary
8 election shall withdraw no later than the first Tuesday in
9 [~~April~~] February before that primary election by filing a
10 signed and notarized statement of withdrawal with the
11 secretary of state."

12 SECTION 8. Section 1-8-56 NMSA 1978 (being Laws 1977,
13 Chapter 230, Section 4, as amended) is amended to read:

14 "1-8-56. NOMINATION BY COMMITTEE.--There shall be
15 convened in Santa Fe a committee consisting of the chief
16 justice of the supreme court, as [~~chairman~~] chair, the
17 speaker of the house of representatives, [~~and~~] the minority
18 floor leader of the house of representatives, the president
19 pro tempore of the senate, the minority floor leader of the
20 senate and the state [~~chairmen~~] chairs of those major
21 political parties participating in the presidential primary.
22 The committee shall nominate as presidential primary
23 candidates, and certify to the secretary of state, not later
24 than [~~February~~] November 15 before the presidential primary
25 election, the names of all those generally advocated and

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1 nationally recognized or supported by any major political
2 party in the state as candidates of the major political
3 parties participating in the presidential primary for the
4 office of president of the United States."

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