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SENATE BILL 93

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

INTRODUCED BY

Eric G. Griego

AN ACT

RELATING TO ELECTIONS; ALLOWING A POLITICAL PARTY TO NOMINATE ANY QUALIFIED CANDIDATE TO RUN UNDER ITS PARTY NAME IN AN ELECTION; ALLOWING A CANDIDATE'S NAME TO APPEAR MORE THAN ONCE ON A BALLOT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1993.

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

SECTION 1. Section 1-4-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 72, as amended by Laws 1993, Chapter 314, Section 15 and also by Laws 1993, Chapter 316, Section 15) is amended to read:

"1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT BE MADE.--~~[A. No]~~ A designation of party affiliation shall not be made or changed on an existing certificate of registration

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1 at any time during which registration is closed.

2 ~~[B. Every person appearing as a candidate on the~~
3 ~~primary or general election ballot shall be a candidate only~~
4 ~~under the name and party affiliation designation appearing on~~
5 ~~his existing certificate of registration on file in the county~~
6 ~~clerk's office on the date of the governor's proclamation of a~~
7 ~~primary election.]"~~

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

10 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION-
11 DESIGNATED NOMINEES.--

12 A. If the rules of a minor political party require
13 nomination by political convention:

14 (1) the chair and secretary of the state
15 political convention shall certify to the secretary of state
16 the names of their party's nominees for United States senator,
17 United States representative, all elective state offices,
18 legislative offices elected from multicounty districts, the
19 public regulation commission, all elective judicial officers in
20 the judicial department and all offices representing a district
21 composed of more than one county; and

22 (2) the chair and secretary of the county
23 political convention shall certify to the county clerk the
24 names of their party's nominees for elected county offices and
25 for legislative offices elected from a district located wholly

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1 within one county or that is composed of only one county.

2 B. The names certified to the secretary of state
3 shall be filed on the twenty-first day following the primary
4 election in the year of the general election and shall be
5 accompanied by a petition containing a list of signatures and
6 addresses of voters totaling not less than one percent of the
7 total number of votes cast at the last preceding general
8 election for the office of governor or president of the United
9 States, as the case may be:

- 10 (1) in the state for statewide offices; and
- 11 (2) in the district for offices other than
- 12 statewide offices.

13 The petition shall contain a statement that the voters
14 signing the petition are residents of the state, district,
15 county or area to be represented by the office for which the
16 person being nominated is a candidate.

17 C. The names certified to the county clerk shall be
18 filed on the twenty-first day following the primary election in
19 the year of the general election and shall be accompanied by a
20 petition containing a list of signatures and addresses of
21 voters totaling not less than one percent of the total number
22 of votes cast at the last preceding general election for the
23 office of governor or president of the United States, as the
24 case may be:

- 25 (1) in the county for countywide offices; and

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

3 The petition shall contain a statement that the voters
4 signing the petition are residents of the state, district,
5 county or area to be represented by the office for which the
6 person being nominated is a candidate.

7 ~~[D. Persons certified as nominees shall be members~~
8 ~~of that party before the day the governor issues the primary~~
9 ~~election proclamation.]~~

10 ~~E.]~~ D. No voter shall sign a petition prescribed by
11 this section for more persons than the number of minor party
12 candidates necessary to fill the office at the next ensuing
13 general election."

14 SECTION 3. Section 1-8-8 NMSA 1978 (being Laws 1969,
15 Chapter 240, Section 158, as amended) is amended to read:

16 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING
17 AFTER PRIMARY.--

18 A. If after a primary election a vacancy occurs,
19 for any cause, in the list of nominees of a qualified political
20 party for any public office to be filled in the general
21 election, or a vacancy occurs because of the resignation or
22 death of a person holding a public office not included in the
23 governor's proclamation and which office is required by law to
24 be filled at the next succeeding general election, the vacancy
25 on the general election ballot may be filled by:

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1 (1) the central committee of the state
2 political party filing the name of its nominee for the office
3 with the proper filing officer when [~~such~~] the office is a
4 federal, state, district or multicounty legislative district
5 office; and

6 (2) the central committee of the county
7 political party filing the name of its nominee for the office
8 with the proper filing officer when [~~such~~] the office is a
9 magistrate, county or a legislative district office where the
10 district is entirely within the boundaries of a single county.

11 B. [~~Appointments~~] An appointment made pursuant to
12 Subsection A of this section shall [~~be of the same party~~
13 ~~affiliation as the original nominee and~~] reside in the district
14 from which [~~he~~] the nominee will be elected as shown by [~~his~~]
15 the nominee's certificate of registration on file in the county
16 clerk's office before the day of the governor's primary
17 election proclamation.

18 C. Appointments to fill vacancies in the list of a
19 political party's nominees shall be made and filed at least
20 fifty-six days prior to the general election. If the vacancy
21 is caused by the death of a nominee, the central committee may
22 in like manner file the name of its nominee to fill the vacancy
23 up until five days prior to the general election.

24 D. When the name of a nominee is filed as provided
25 in this section, [~~such~~] the name shall be placed on the general

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1 election ballot as the political party's candidate for that
2 office. In the case of a nominee appointed after the general
3 election ballots are printed, [~~such~~] the name shall be placed
4 on the ballot by pasting the printed name of the nominee over
5 the name of the candidate whose vacancy [~~he~~] the nominee fills
6 on the general election ballot."

7 SECTION 4. Section 1-8-18 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 167, as amended) is amended to read:

9 "1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A
10 CANDIDATE.--

11 A. No person shall become a candidate for
12 nomination by a political party or have [~~his~~] the person's name
13 printed on the primary election ballot unless [~~his~~] the
14 person's record of voter registration shows

15 [~~(1) his affiliation with that political party~~
16 ~~on the date of the governor's proclamation for the primary~~
17 ~~election; and~~

18 ~~(2) his] the person's residence in the~~
19 district of the office for which [~~he~~] the person is a candidate
20 on the date of the governor's proclamation for the primary
21 election or in the case of a person seeking the office of
22 United States senator or United States representative, [~~his~~]
23 residence within New Mexico on the date of the governor's
24 proclamation for the primary election.

25 B. [~~Any~~] A voter may challenge the candidacy of

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1 [any] a person seeking nomination by a political party for the
2 reason that [he] the person does not meet the residency
3 requirements of [~~Subsection A of~~] this section by filing a
4 petition in the district court within ten days after the last
5 day for filing a declaration of candidacy or a statement of
6 candidacy for convention designation. The district court shall
7 hear and render a decision on the matter within ten days after
8 the filing of the petition. The decision of the district court
9 may be appealed to the supreme court within five days after the
10 decision is rendered. The supreme court shall hear and render
11 a decision on the appeal forthwith."

12 SECTION 5. Section 1-8-21.1 NMSA 1978 (being Laws 1993,
13 Chapter 55, Section 11) is amended to read:

14 "1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION.--

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

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

23 C. The state convention shall take only one ballot
24 upon candidates for each office to be filled. Every candidate
25 receiving twenty percent or more of the votes of the duly

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1 elected delegates to the convention for the office to be voted
2 upon at the ensuing primary election shall be certified to the
3 secretary of state as a convention-designated nominee for that
4 office by the political party. Certification shall take place
5 no later than 5:00 p.m. on the first Tuesday succeeding the
6 state convention.

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

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

16 "1-8-27. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
17 MANNER OF FILING.--Each declaration of candidacy, by nominating
18 petition or by preprimary convention designation, shall be
19 delivered for filing in person by the candidate therein named
20 or by a person acting, by virtue of written authorization,
21 solely on the candidate's behalf. ~~[The proper filing officer~~
22 ~~shall not accept for filing more than one declaration of~~
23 ~~candidacy from any one individual, except that candidates who~~
24 ~~seek but fail to receive preprimary convention designation~~
25 ~~shall file a declaration of candidacy by nomination, according~~

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1 ~~to provisions of the Primary Election Law, to have their names~~
2 ~~placed on the primary election ballot.]"~~

3 SECTION 7. Section 1-8-29 NMSA 1978 (being Laws 1973,
4 Chapter 228, Section 3, as amended by Laws 1993, Chapter 55,
5 Section 5 and by Laws 1993, Chapter 314, Section 46 and also by
6 Laws 1993, Chapter 316, Section 46) is amended to read:

7 "1-8-29. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
8 FORM.--In making a declaration of candidacy by nominating
9 petition or by preprimary convention designation, the candidate
10 shall submit substantially the following form:

11 "DECLARATION OF CANDIDACY
12 BY PREPRIMARY CONVENTION DESIGNATION
13 (OR BY NOMINATING PETITION)

14 I, _____, (candidate's name on certificate
15 of registration) being first duly sworn, say that I reside at
16 _____, as shown by my certificate of registration
17 as a voter of Precinct No. _____ of the county of
18 _____, State of New Mexico;

19 I am a member of the _____ party as shown
20 by my certificate of registration [~~and I have not changed such~~
21 ~~party affiliation subsequent to the governor's proclamation~~
22 ~~calling the primary in which I seek to be a candidate];~~

23 I desire to become a candidate for the office of
24 _____ at the primary election to be held on
25 the date set by law for this year, and if the office be that of

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1 a member of the legislature or that of a member of the [~~state~~
2 ~~board of~~] public education commission, that I actually reside
3 at the address designated on my certificate of voter
4 registration;

5 I will be eligible and legally qualified to hold this
6 office at the beginning of its term;

7 If a candidate for any office for which a nominating
8 petition is required, I am submitting with this statement a
9 nominating petition in the form and manner as prescribed by the
10 Primary Election Law; and

11 I make the foregoing affidavit under oath, knowing that
12 any false statement herein constitutes a felony punishable
13 under the criminal laws of New Mexico.

14 _____
15 (Declarant)

16 _____
17 (Mailing Address)

18 _____
19 (Residence Address)

20 Subscribed and sworn to before me this ____ day of
21 _____, [~~19~~] 20 ____.

22 _____
23 (Notary Public)

24 My commission expires:
25 _____ ". "

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1 SECTION 8. Section 1-8-31 NMSA 1978 (being Laws 1973,
2 Chapter 228, Section 5, as amended) is amended to read:

3 "1-8-31. PRIMARY ELECTION LAW--NOMINATING PETITION--
4 SIGNATURES TO BE COUNTED.--

5 A. A person who signs a nominating petition shall
6 sign only one petition for the same office unless more than one
7 candidate is to be elected to that office, and in that case a
8 person may sign not more than the number of nominating
9 petitions equal to the number of candidates to be elected to
10 the office.

11 B. A person who signs a nominating petition shall
12 indicate [~~his~~] the person's residence as [~~his~~] the person's
13 address. If the person does not have a residential address,
14 [~~he~~] the person may provide [~~his~~] the person's mailing address.

15 C. A signature shall be counted on a nominating
16 petition unless there is evidence presented that the person
17 signing:

18 ~~[(1) was not a registered member of the~~
19 ~~candidate's political party ten days prior to the filing of the~~
20 ~~nominating petition;~~

21 (2)] (1) failed to provide information
22 required by the nominating petition sufficient to determine
23 that the person is a qualified voter of the state, district,
24 county or area to be represented by the office for which the
25 person seeking the nomination is a candidate;

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1 [~~(3)~~] (2) has signed more than one petition
2 for the same office, except as provided in Subsection A of this
3 section, or has signed one petition more than once; or

4 [~~(4)~~ is not of the same political party as the
5 candidate named in the nominating petition as shown by the
6 signer's certificate of registration; or

7 ~~(5)~~] (3) is not the person whose name appears
8 on the nominating petition.

9 D. The procedures set forth in this section shall
10 be used to validate signatures on any petition required by the
11 Election Code [~~except that Paragraphs (1) and (4) of Subsection~~
12 ~~C of this section shall not apply to petitions filed by~~
13 ~~unaffiliated candidates or petitions filed by candidates of~~
14 ~~minor political parties]."~~

15 SECTION 9. Section 1-8-33 NMSA 1978 (being Laws 1973,
16 Chapter 228, Section 7, as amended) is amended to read:

17 "1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--
18 NUMBER OF SIGNATURES REQUIRED.--

19 A. As used in this section, "total vote" means the
20 sum of all votes cast for all of the party's candidates for
21 governor at the last preceding primary election at which the
22 party's candidate for governor was nominated.

23 B. Candidates who seek preprimary convention
24 designation shall file nominating petitions at the time of
25 filing declarations of candidacy. Nominating petitions for

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1 those candidates shall be signed by a number of voters equal to
2 at least two percent of the total vote of the [~~candidate's~~]
3 party whose nomination the candidate is seeking in the state or
4 congressional district, or the following number of voters,
5 whichever is greater:

6 (1) for statewide offices, two hundred thirty
7 voters; and

8 (2) for congressional candidates, seventy-
9 seven voters.

10 C. Nominating petitions for candidates for any
11 other office to be voted on at the primary election for which
12 nominating petitions are required shall be signed by a number
13 of voters equal to at least three percent of the total vote of
14 the [~~candidate's~~] party whose nomination the candidate is
15 seeking in the district or division, or the following number of
16 voters, whichever is greater:

17 (1) for metropolitan court and magistrate
18 courts, ten voters;

19 (2) for the public regulation commission,
20 fifty voters;

21 (3) for the public education commission,
22 twenty-five voters;

23 (4) for state representative, ten voters;

24 (5) for state senator, seventeen voters; and

25 (6) for district attorney and district judge,

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1 fifteen voters.

2 D. A candidate who fails to receive the preprimary
3 convention designation that the candidate sought may collect
4 additional signatures to total at least four percent of the
5 total vote of the [~~candidate's~~] party whose nomination the
6 candidate is seeking in the state or congressional district,
7 whichever applies to the office [~~the candidate seeks~~] sought
8 and file a new declaration of candidacy and nominating
9 [~~petitions~~] petition for the office for which the candidate
10 failed to receive a preprimary designation. The declaration of
11 candidacy and nominating [~~petitions~~] petition shall be filed
12 with the secretary of state either ten days following the date
13 of the preprimary convention at which the candidate failed to
14 receive the designation or on the date all declarations of
15 candidacy and nominating petitions are due pursuant to the
16 provisions of the Primary Election Law, whichever is later."

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

19 "1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE.--Except in
20 the case of a candidate for United States [~~senate~~] senator or
21 United States representative who is also a candidate for
22 president or vice president of the United States, [~~no~~] or a
23 candidate who has been nominated for an elective office by more
24 than one political party, a candidate's name shall not appear
25 more than once on the ballot. [~~Whenever a person is, with his~~

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1 ~~knowledge and consent, a candidate at any nominating convention~~
2 ~~or primary for nomination as the candidate of any political~~
3 ~~party for any office to be voted on at the election to be held~~
4 ~~next after such convention or primary, his name shall not be~~
5 ~~printed on the ballot at such election except in the column~~
6 ~~under the party name and emblem of the party designated on his~~
7 ~~declaration of candidacy or statement of candidacy for~~
8 ~~convention designation.]"~~

9 SECTION 11. REPEAL.--Section 1-8-19 NMSA 1978 (being Laws
10 1975, Chapter 255, Section 106, as amended) is repealed.

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