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HOUSE BILL 299

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Al Park

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR AN ALTERNATE METHOD FOR  
PRIMARY BALLOT ACCESS; SETTING FEES; 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. A new section of the Primary Election Law is  
enacted to read:

"~~[NEW MATERIAL]~~ ALTERNATE METHOD FOR PRIMARY BALLOT ACCESS  
FOR MAJOR PARTY CANDIDATES--FEES.--

A. In lieu of submitting a nominating petition  
otherwise required by law, or being nominated at a party  
convention, a person may become a major party candidate for  
office in a primary election by paying the proper fee as  
specified in Subsection B of this section at the time of filing  
a declaration of candidacy.

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1           B. Filing fees for primary ballot access are as  
2 follows:

3                   (1) for offices for which a salary is paid,  
4 four percent of the annual salary for that office;

5                   (2) for state legislator, one hundred dollars  
6 (\$100); and

7                   (3) for any other office for which no salary  
8 is paid, fifty dollars (\$50.00).

9           C. Filing fees shall be paid to the office where  
10 the candidate is required to file a declaration of candidacy.  
11 If a candidate who has paid a filing fee receives at least  
12 fifteen percent of the vote for the office for which the  
13 candidate is running in the primary election, the candidate  
14 shall be refunded one-half of the filing fee paid by the  
15 candidate within forty-five days of the election."

16           Section 2. Section 1-8-21 NMSA 1978 (being Laws 1996,  
17 Chapter 20, Section 3) is amended to read:

18           "1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON  
19 PRIMARY BALLOT.--

20                   A. All candidates seeking primary election  
21 nomination to a statewide office or the office of United States  
22 representative shall file declarations of candidacy with the  
23 proper filing officer. Candidates shall file nominating  
24 petitions or filing fees at the time of filing their  
25 declarations of candidacy. Candidates who seek, but do not

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1 obtain, preprimary convention designation by a major political  
2 party may file new declarations of candidacy and nominating  
3 petitions pursuant to Section 1-8-33 NMSA 1978.

4 B. Candidates for any other office shall have their  
5 names placed on the primary election ballot by filing  
6 declarations of candidacy and nominating petitions or filing  
7 fees with the proper filing officer. Candidates for county  
8 office shall [~~also~~] pay filing fees or file the proper paupers'  
9 statements at the time of filing declarations of candidacy."

10 Section 3. Section 1-8-26 NMSA 1978 (being Laws 1975,  
11 Chapter 295, Section 12, as amended) is amended to read:

12 "1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS  
13 NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

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

21 B. Declarations of candidacy for any other office  
22 and declarations of candidacy for retention for all affected  
23 district judicial offices shall be filed with the proper filing  
24 officer on the third Tuesday of March of each even-numbered  
25 year between the hours of 9:00 a.m. and 5:00 p.m.

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

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

14 E. If a candidate is notified by the proper filing  
15 officer that [~~he~~] the candidate is not qualified to have [~~his~~]  
16 the candidate's name appear on the ballot, the candidate may  
17 challenge that decision by filing a petition with the district  
18 court within ten days of the notification. The district court  
19 shall hear and render a decision on the matter within ten days  
20 after the petition is filed."

21 Section 4. Section 1-8-27 NMSA 1978 (being Laws 1969,  
22 Chapter 240, Section 172, as amended) is amended to read:

23 "1-8-27. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--  
24 MANNER OF FILING.--Each declaration of candidacy, by filing  
25 fee, by nominating petition or by preprimary convention

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1 designation, shall be delivered for filing in person by the  
2 candidate therein named or by a person acting, by virtue of  
3 written authorization, solely on the candidate's behalf. The  
4 proper filing officer shall not accept for filing more than one  
5 declaration of candidacy from any one individual, except that  
6 candidates who seek but fail to receive preprimary convention  
7 designation shall file a declaration of candidacy by  
8 nomination, according to provisions of the Primary Election  
9 Law, to have their names placed on the primary election  
10 ballot."

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

15 "1-8-29. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--  
16 FORM.--In making a declaration of candidacy by nominating  
17 petition or by pre-primary convention designation, the  
18 candidate shall submit substantially the following form:

19 "DECLARATION OF CANDIDACY  
20 BY PRE-PRIMARY CONVENTION DESIGNATION  
21 (OR BY NOMINATING PETITION)

22 I, \_\_\_\_\_, (candidate's name on certificate  
23 of registration) being first duly sworn, say that I reside at  
24 \_\_\_\_\_, as shown by my certificate of registration  
25 as a voter of Precinct No. \_\_\_\_\_ of the county of

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1 \_\_\_\_\_, State of New Mexico;

2 I am a member of the \_\_\_\_\_ party as shown  
3 by my certificate of registration and I have not changed such  
4 party affiliation subsequent to the governor's proclamation  
5 calling the primary in which I seek to be a candidate;

6 I desire to become a candidate for the office of  
7 \_\_\_\_\_ at the primary election to be held on  
8 the date set by law for this year, and if the office be that of  
9 a member of the legislature or that of a member of the [~~state~~  
10 ~~board of~~] public education commission, that I actually reside  
11 at the address designated on my certificate of voter  
12 registration;

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

15 If a candidate for any office for which a nominating  
16 petition is required, I am submitting with this statement a  
17 nominating petition in the form and manner as prescribed by the  
18 Primary Election Law or paying the proper filing fee in lieu of  
19 the petition as allowed by law; and

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

23 \_\_\_\_\_  
24 (Declarant)  
25 \_\_\_\_\_

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(Mailing Address)

\_\_\_\_\_

(Residence Address)

Subscribed and sworn to before me this \_\_\_\_ day of

\_\_\_\_\_, [~~19~~] 20 \_\_\_\_.

\_\_\_\_\_

(Notary Public)

My commission expires:

\_\_\_\_\_ ". "

Section 6. Section 1-8-30 NMSA 1978 (being Laws 1973, Chapter 228, Section 4, as amended) is amended to read:

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

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

B. In making a declaration of candidacy, the candidate at the same time shall file a nominating petition, which shall be on the form prescribed by law or pay the proper filing fee in lieu of the petition as allowed by law.

C. The nominating petition shall be on paper approximately eight and one-half inches wide and eleven inches

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1 long with numbered lines for signatures spaced approximately  
2 three-eighths of an inch apart and shall be in the following  
3 form:

4 "NOMINATING PETITION

5 I, the undersigned, a registered voter of the county of  
6 \_\_\_\_\_, New Mexico, and a member of the  
7 \_\_\_\_\_ party, hereby nominate \_\_\_\_\_,  
8 who resides at \_\_\_\_\_ in the county of  
9 \_\_\_\_\_, New Mexico, for the party nomination for the  
10 office of \_\_\_\_\_, to be voted for at the  
11 primary election to be held on the first Tuesday of June, 20  
12 \_\_\_\_\_, and I declare that I am a resident of the state,  
13 district, county or area to be represented by the office for  
14 which the person being nominated is a candidate. I also  
15 declare that I have not signed, and will not sign, any  
16 nominating petition for more persons than the number of  
17 candidates necessary to fill such office at the next ensuing  
18 general election.

- 19 1. \_\_\_\_\_  
20 (usual (name printed (address as (city or  
21 signature) as registered) registered) rt. no.)
- 22 2. \_\_\_\_\_  
23 (usual (name printed (address as (city or  
24 signature) as registered) registered) rt. no.)."

25 D. In October of odd-numbered years, the secretary



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1 of state shall furnish to each county clerk a sample of a  
2 nominating petition form, a copy of which shall be made  
3 available by the county clerk upon request of any candidate.

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

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