

1 HOUSE BILL 346

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Nate Gentry

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10 AN ACT

11 RELATING TO PRIMARIES; MOVING THE DATE FOR HOLDING PRIMARIES TO
12 THE THIRD TUESDAY IN MARCH OF EACH EVEN-NUMBERED YEAR; CHANGING
13 THE DATES FOR DESIGNATION OF CANDIDATES, DECLARATIONS OF
14 CANDIDACY, FILING DEADLINES, WITHDRAWAL OF CANDIDACY AND OTHER
15 PURPOSES RELATED TO PRIMARIES; MAKING PREPRIMARY CONVENTION
16 DELEGATION OF CANDIDATES OPTIONAL.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

21 "1-8-11. PRIMARY ELECTION LAW--TIME OF HOLDING PRIMARY.--
22 A primary election shall be held in each county in this state
23 on the [~~first~~] third Tuesday [~~after the first Monday in June~~]
24 in March of each even-numbered year."

25 SECTION 2. Section 1-8-12 NMSA 1978 (being Laws 1969,

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1 Chapter 240, Section 161, as amended) is amended to read:

2 "1-8-12. PRIMARY ELECTION LAW--PROCLAMATION.--The
3 governor shall issue a public proclamation calling a primary
4 election to be held in each county and precinct of the state on
5 the date prescribed by the Primary Election Law. The
6 proclamation shall be filed with the secretary of state on the
7 [~~last~~] second Monday in [~~January~~] November of each [~~even-~~
8 ~~numbered~~] odd-numbered year."

9 SECTION 3. Section 1-8-13 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 162, as amended) is amended to read:

11 "1-8-13. PRIMARY ELECTION LAW--CONTENTS OF
12 PROCLAMATION.--

13 A. The proclamation calling a primary election
14 shall contain:

15 [~~A.~~] (1) the names of the major political
16 parties participating in the primary election;

17 [~~B.~~] (2) the offices for which each political
18 party shall nominate candidates; provided that if any law is
19 enacted by the legislature in the year in which the primary
20 election is held and the law does not take effect until after
21 the date of the proclamation but prior to the date of the
22 primary election, the proclamation shall conform to the intent
23 of the law with respect to the offices for which each political
24 party shall nominate candidates;

25 [~~C.~~] (3) the date on which declarations of

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1 candidacy and nominating petitions for United States
2 representative, any office voted upon by all the voters of the
3 state, a legislative office, the office of district judge,
4 district attorney, [~~state board of~~] public education
5 commission, public regulation commission or magistrate shall be
6 filed and the places where they shall be filed in order to have
7 the candidates' names printed on the official ballot of their
8 party at the primary election;

9 [D-] (4) the date on and place at which
10 declarations of candidacy shall be filed for any other office
11 and filing fees paid or, in lieu thereof, a pauper's statement
12 of inability to pay;

13 [E-] (5) the final date on and place at which
14 candidates for the office of United States representative and
15 for any statewide office seeking preprimary convention
16 designation by the major parties shall file petitions and
17 declarations of candidacy;

18 [F-] (6) the final date on which the major
19 political parties [~~shall~~] that choose to hold state preprimary
20 conventions for the designation of candidates may hold the
21 conventions; and

22 [G-] (7) the final date on and place at which
23 certificates of designation of primary election candidates
24 shall be filed by political parties with the secretary of
25 state.

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1 B. As used in the Primary Election Law, "statewide
2 office" means [~~any~~] an office voted on by all the voters of the
3 state."

4 SECTION 4. Section 1-8-21 NMSA 1978 (being Laws 1996,
5 Chapter 20, Section 3, as amended) is amended to read:

6 "1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON
7 PRIMARY BALLOT.--

8 A. All candidates seeking primary election
9 nomination to a statewide office or the office of United States
10 representative shall file declarations of candidacy with the
11 proper filing officer. Candidates shall file nominating
12 petitions at the time of filing their declarations of
13 candidacy. Candidates who seek, but do not obtain, preprimary
14 convention designation by a major political party may file new
15 declarations of candidacy and nominating petitions pursuant to
16 Section 1-8-33 NMSA 1978.

17 B. Except as provided in Subsection C of this
18 section and candidates selected by preprimary convention
19 designation, candidates for any [~~other~~] office listed in
20 Paragraph (3) of Subsection A of Section 1-8-13[~~E~~] NMSA 1978
21 shall have their names placed on the primary election ballot by
22 filing declarations of candidacy and nominating petitions with
23 the proper filing officer.

24 C. Candidates for county office shall have their
25 names placed on the primary election ballot by filing

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1 declarations of candidacy and paying filing fees or filing the
2 proper paupers' statements at the time of filing declarations
3 of candidacy with the proper filing officer."

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

6 "1-8-21.1. DESIGNATION OF CANDIDATES BY CONVENTION.--

7 A. [~~State conventions of~~] Major political parties
8 may choose to designate candidates for nomination to statewide
9 office or the office of United States representative at state
10 conventions or as otherwise provided for candidates for other
11 state offices.

12 B. No state convention for designating candidates
13 shall be held later than the [~~second~~] third Sunday in [~~March~~]
14 December preceding the primary election, and delegates to the
15 convention shall be elected according to state party rules
16 filed in the office of the secretary of state.

17 C. The state convention shall take only one ballot
18 upon candidates for each office to be filled. Every candidate
19 receiving twenty percent or more of the votes of the duly
20 elected delegates to the convention for the office to be voted
21 upon at the ensuing primary election shall be certified to the
22 secretary of state as a convention-designated nominee for that
23 office by the political party. Certification shall take place
24 no later than 5:00 p.m. on the first Tuesday succeeding the
25 state convention.

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1 D. The certificate of designation submitted to the
2 secretary of state shall state the name of the office for which
3 each person is a candidate, each candidate's name and address
4 and the name of the political party that each candidate
5 represents and certification that the candidate has been a
6 member of that political party for the period of time required
7 by the Election Code."

8 SECTION 6. Section 1-8-26 NMSA 1978 (being Laws 1975,
9 Chapter 295, Section 12, as amended by Laws 2014, Chapter 40,
10 Section 5 and by Laws 2014, Chapter 81, Section 5) is amended
11 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 shall be filed with the
17 proper filing officer on the [~~first~~] third Tuesday in
18 [~~February~~] November of each [~~even-numbered~~] odd-numbered year
19 between the hours of 9:00 a.m. and 5:00 p.m.

20 B. Declarations of candidacy for any [~~other~~] office
21 to be nominated in the primary election for which a preprimary
22 convention designation process has not been used shall be filed
23 with the proper filing officer on the [~~second~~] third Tuesday of
24 [~~March~~] December of each [~~even-numbered~~] odd-numbered year
25 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. Declarations of candidacy for retention for all
6 affected judicial offices shall be filed with the proper filing
7 officer between the hours of 9:00 a.m. and 5:00 p.m. on the
8 [~~second~~] third Tuesday in [~~March~~] December of each [~~even-~~
9 ~~numbered~~] odd-numbered year.

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

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

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1 the district court may be appealed to the supreme court
2 within five days after the decision is rendered. The supreme
3 court shall hear and render a decision on the appeal
4 forthwith."

5 SECTION 7. Section 1-8-30 NMSA 1978 (being Laws 1973,
6 Chapter 228, Section 4, as amended) is amended to read:

7 "1-8-30. PRIMARY ELECTION LAW--DECLARATION OF
8 CANDIDACY--NOMINATING PETITION--FILING AND FORM.--

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

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

18 C. The nominating petition shall be on paper
19 approximately eight and one-half inches wide and eleven
20 inches long with numbered lines for signatures spaced
21 approximately three-eighths of an inch apart and shall be in
22 the following form:

23 "NOMINATING PETITION

24 I, the undersigned, a registered voter of New Mexico,
25 and a member of the _____ party, hereby nominate

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1 _____, who resides at _____ in
2 the county of _____, New Mexico, for the party
3 nomination for the office of _____, to be
4 voted for at the primary election to be held on _____, and I
5 declare that I am a registered voter of the state, district,
6 county or area to be represented by the office for which the
7 person being nominated is a candidate. I also declare that I
8 have not signed, and will not sign, any nominating petition
9 for more persons than the number of candidates necessary to
10 fill such office at the next ensuing general election.

- 11 1. _____
12 (usual (name printed (address as (city or
13 signature) as registered) registered) zip code)
14 2. _____
15 (usual (name printed (address as (city or
16 signature) as registered) registered) zip code)".

17 D. In [~~October~~] July of odd-numbered years, the
18 secretary of state shall post on the secretary of state's web
19 site and shall furnish to each county clerk a sample of a
20 nominating petition form, a copy of which shall be made
21 available by the county clerk upon request of any candidate.

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

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

3 "1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--
4 NUMBER OF SIGNATURES REQUIRED.--

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

9 B. Candidates who seek preprimary convention
10 designation shall file nominating petitions at the time of
11 filing declarations of candidacy. Nominating petitions for
12 those candidates shall be signed by a number of voters equal
13 to at least two percent of the total vote of the candidate's
14 party in the state or congressional district, or the
15 following number of voters, whichever is greater: for
16 statewide offices, two hundred thirty voters; and for
17 congressional candidates, seventy-seven voters.

18 C. Candidates for statewide office or the office
19 of United States representative who do not seek preprimary
20 convention designation shall file nominating petitions at the
21 same time as candidates for any other office to be voted on
22 at the primary election for which nominating petitions are
23 required. Nominating petitions for those candidates shall be
24 signed by a number of voters equal to at least three percent
25 of the total vote of the candidate's party in the state or

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1 congressional district, or the following number of voters,
2 whichever is greater: for statewide offices, two hundred
3 thirty voters; and for congressional candidates, seventy-
4 seven voters.

5 ~~[G.]~~ D. Nominating petitions for candidates for
6 any other office to be voted on at the primary election for
7 which nominating petitions are required shall be signed by a
8 number of voters equal to at least three percent of the total
9 vote of the candidate's party in the district or division, or
10 the following number of voters, whichever is greater: for
11 metropolitan court and magistrate courts, ten voters; for the
12 public regulation commission, fifty voters; for the public
13 education commission, twenty-five voters; for state
14 representative, ten voters; for state senator, seventeen
15 voters; and for district attorney and district judge, fifteen
16 voters.

17 ~~[D.]~~ E. A candidate who fails to receive the
18 preprimary convention designation that the candidate sought
19 may collect additional signatures to total at least four
20 percent of the total vote of the candidate's party in the
21 state or congressional district, whichever applies to the
22 office the candidate seeks, and file a new declaration of
23 candidacy and nominating petitions for the office for which
24 the candidate failed to receive a preprimary designation.
25 The declaration of candidacy and nominating petitions shall

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1 be filed with the secretary of state either ten days
2 following the date of the preprimary convention at which the
3 candidate failed to receive the designation or on the date
4 all declarations of candidacy and nominating petitions are
5 due pursuant to the provisions of the Primary Election Law,
6 whichever is later."

7 SECTION 9. Section 1-8-36.1 NMSA 1978 (being Laws 1981,
8 Chapter 156, Section 1, as amended) is amended to read:

9 "1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

10 A. Write-in candidates are permitted in the
11 primary election only for the offices of United States
12 representative, members of the legislature, district judges,
13 district attorneys, public regulation commission, public
14 education commission, magistrates and any office voted upon
15 by all voters of the state.

16 B. A person may be a write-in candidate only for
17 nomination by the major political party with which the person
18 is affiliated as shown by the certificate of registration,
19 and such person shall have the qualifications to be a
20 candidate in the primary election for the political party for
21 which the person is a write-in candidate.

22 C. A person desiring to be a write-in candidate
23 for one of the offices listed in Subsection A of this section
24 in the primary election shall file with the proper filing
25 officer a declaration of intent to be a write-in candidate.

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1 Such declaration of intent shall be filed between 9:00 a.m.
2 and 5:00 p.m. on the third Tuesday in [~~March~~] December
3 preceding the primary.

4 D. A write-in vote shall be counted and canvassed
5 only if:

6 (1) the name written in is the name of a
7 declared write-in candidate and shows two initials and last
8 name; first name, middle initial or name and last name; first
9 and last name; or the full name as it appears on the
10 declaration of intent to be a write-in candidate and
11 misspellings of the above combinations that can be reasonably
12 determined by a majority of the members of the precinct board
13 to identify a declared write-in candidate; and

14 (2) the name is written on the proper line
15 provided on the ballot for write-in votes for the office for
16 which the candidate has filed a declaration of intent and the
17 voter has followed the directions for casting a vote for the
18 write-in candidate.

19 E. At the time of filing the declaration of
20 intent to be a write-in candidate, the write-in candidate
21 shall be considered a candidate for all purposes and
22 provisions relating to candidates in the Election Code,
23 including the obligations to report pursuant to the Campaign
24 Reporting Act, except that the write-in candidate's name
25 shall not be printed on the ballot.

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1 F. No unopposed write-in candidate shall have the
2 write-in candidate's nomination certified unless the write-in
3 candidate receives at least the number of write-in votes in
4 the primary election as the write-in candidate would need
5 signatures on a nominating petition pursuant to the
6 requirements set out in Section 1-8-33 NMSA 1978.

7 G. A write-in vote shall be cast by writing in
8 the name and following the directions for casting a vote for
9 the write-in candidate. As used in this section, "write-in"
10 does not include the imprinting of any name by rubber stamp
11 or similar device or the use of pre-printed stickers or
12 labels."

13 SECTION 10. Section 1-8-44 NMSA 1978 (being Laws 1969,
14 Chapter 240, Section 182, as amended) is amended to read:

15 "1-8-44. PRIMARY ELECTION LAW--WITHDRAWAL OF
16 CANDIDATES.--A candidate seeking to withdraw from a primary
17 election shall withdraw no later than the [~~first~~] third
18 Tuesday in [~~April~~] January before that primary election by
19 filing a signed and notarized statement of withdrawal with
20 the proper filing officer."

21 SECTION 11. Section 1-8-65 NMSA 1978 (being Laws 2014,
22 Chapter 40, Section 7 and Laws 2014, Chapter 81, Section 7)
23 is amended to read:

24 "1-8-65. MINOR POLITICAL PARTY CANDIDATES FOR GENERAL
25 OR UNITED STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING

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1 PETITION FORM.--

2 A. As used in Sections 1-8-2 through 1-8-4 NMSA
3 1978, "nominating petition" means the authorized form used
4 for obtaining the required number of signatures of voters
5 that is signed on behalf of the person wishing to become a
6 minor political party candidate for a political office in a
7 general or United States representative special election
8 requiring a nominating petition.

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

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

18 "NOMINATING PETITION FOR MINOR POLITICAL PARTY CANDIDACY
19 (GENERAL ELECTION)

20 I, the undersigned, a registered voter of
21 New Mexico, hereby nominate _____, who resides
22 at _____ in the county of _____,
23 New Mexico, for the _____ party nomination for the
24 office of _____ to be voted for at the
25 general election or United States representative special

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1 election to be held on _____, and I declare that I am a
2 registered voter of the area to be represented by the office
3 for which the person being nominated is a candidate. I also
4 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 or at a United States representative special
8 election. I understand that if the candidate's political
9 party does not qualify as a minor political party, the
10 candidate may run as an unaffiliated independent candidate.

- 11 1. _____
12 (usual signature) (name printed (address as (city or zip
13 as registered) registered) code)
14 2. _____
15 (usual signature) (name printed (address as (city or zip
16 as registered) registered) code)".

17 D. In [~~March of even-numbered~~] December of odd-
18 numbered years, the secretary of state shall post on the
19 secretary of state's web site and shall furnish to each
20 county clerk a sample of a nominating petition form, a copy
21 of which shall be made available by the county clerk upon
22 request of any candidate.

23 E. When more than one sheet is required for a
24 petition, each of the sheets shall be in the form prescribed
25 by this section."

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1 SECTION 12. Section 1-15A-5 NMSA 1978 (being Laws 1977,
2 Chapter 230, Section 4, as amended) is amended to read:

3 "1-15A-5. NOMINATION BY COMMITTEE.--There shall be
4 convened in Santa Fe a committee consisting of the chief
5 justice of the supreme court, as [~~chairman~~] chair, the
6 speaker of the house of representatives, [~~and~~] the minority
7 floor leader of the house of representatives, the president
8 pro tempore of the senate, the minority floor leader of the
9 senate and the state [~~chairmen~~] chairs of those major
10 political parties participating in the presidential primary.
11 The committee shall nominate as presidential primary
12 candidates, and certify to the secretary of state, not later
13 than [~~February 15~~] November 30 before the presidential
14 primary election, the names of all those generally advocated
15 and nationally recognized or supported by any major political
16 party in the state as candidates of the major political
17 parties participating in the presidential primary for the
18 office of president of the United States."

19 SECTION 13. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is July 1, 2015.