

AN ACT

RELATING TO MINOR POLITICAL PARTIES; PROVIDING PROCEDURES AND FILING REQUIREMENTS FOR THE NOMINATION OF CANDIDATES BY MINOR POLITICAL PARTIES IN GENERAL ELECTIONS; STANDARDIZING FILING DATES FOR CANDIDATES IN GENERAL ELECTIONS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 1-7-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 147, as amended) is amended to read:

"1-7-4. RULES AND REGULATIONS--FILING--FEE.--

A. Each political party shall file its rules and regulations, along with petitions containing the required number of signatures, if the signature provision is applicable to the party, within thirty days after its organization and no later than twenty-three days after the primary election before any general election in which it is authorized to participate.

B. Within seven days after the filing of the political party's rules and qualifying petitions, the secretary of state shall notify the political party whether the rules and qualifying petitions are in proper order and that the party has qualified. The secretary of state shall notify all county clerks in the state of the qualification of that political party and post notice of qualification on the secretary of state's web site.

C. Political parties filing rules and regulations with the county clerk shall pay the standard filing fee."

SECTION 2. Section 1-8-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 151, as amended) is amended to read:

"1-8-1. NOMINATING PROCEDURES--MAJOR POLITICAL PARTIES--MINOR POLITICAL PARTIES.--

A. Any major political party in New Mexico, as defined in Section 1-7-7 NMSA 1978, shall nominate its candidates, other than its presidential candidates, by secret ballot at the next succeeding primary election as prescribed in the Primary Election Law.

B. Any minor political party in New Mexico, as defined in Section 1-7-7 NMSA 1978, shall nominate candidates for public office in the manner prescribed in its party rules and regulations and according to the provisions of the Election Code."

SECTION 3. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended) is amended to read:

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

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

(1) the chair and secretary of the state political convention shall certify to the secretary of state the names of their party's nominees for United States senator,

United States representative, all elective state offices, legislative offices elected from multicounty districts, the public regulation commission, all elective judicial officers in the judicial department and all offices representing a district composed of more than one county; and

(2) the chair and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county.

B. The names certified to the secretary of state shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by nominating petitions containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the state for statewide offices; and

(2) in the district for offices other than statewide offices.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

C. The names certified to the county clerk shall

be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by a nominating petition containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the county for countywide offices;

and

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

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

D. Except in the case of a political party certified in the year of the election, persons certified as candidates shall be members of that party on the day the governor issues the primary election proclamation.

E. When a political party is certified in the year of the general election, and after the day the governor issues the primary election proclamation, a person certified as a candidate shall be:

(1) a member of that party not later than the date the political party filed its rules and qualifying petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

(2) a resident in the district of the office for which the person is a candidate on the date of the governor's proclamation for the primary election or in the case of a person seeking the office of United States senator or United States representative, a resident within New Mexico on the date of the governor's proclamation for the primary election. No person who is a candidate for a party in a primary election may be certified as a candidate for a different party in the general election in the same election cycle.

F. No voter shall sign a petition prescribed by this section for more persons than the number of candidates necessary to fill the office at the next ensuing general election."

SECTION 4. Section 1-8-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 154, as amended) is amended to read:

"1-8-4. SECRETARY OF STATE--CERTIFICATION OF NOMINEES--
MINOR POLITICAL PARTY.--

A. Upon receipt of certificates of nomination of any minor political party and nominating petitions, and no later than 5:00 p.m. on the first Tuesday following the filing date, the proper filing officer shall:

(1) determine whether the method of nomination used by the certifying political party complies with the current rules of that party on file in the secretary

of state's office;

(2) determine whether the number of signatures required have been submitted and all the requirements of Sections 1-8-1 through 1-8-3 NMSA 1978 have been complied with; and

(3) if such determinations are answered in the affirmative, mail notice to the certifying party and the candidate no later than 5:00 p.m. on the Tuesday following the filing date that the certificates of nomination and nominating petitions are in proper order and that the candidate, based on those documents, is qualified to have the candidate's name placed on the ballot.

B. If a minor political party candidate is notified by the proper filing officer that the candidate is not qualified to have the candidate's name appear on the ballot, the candidate may challenge the decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision no later than fifty-six days prior to the general election.

C. Any voter may file a court action challenging a minor political party candidate's nominating petitions

pursuant to the provisions of Section 1-8-35 NMSA 1978."

SECTION 5. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended) is amended to read:

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

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative shall be filed with the proper filing officer on the first Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for any other office to be nominated in the primary election shall be filed with the proper filing officer on the second Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

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

D. Declarations of candidacy for retention for all affected judicial offices shall be filed with the proper filing officer between the hours of 9:00 a.m. and 5:00 p.m. on the second Tuesday in March of each even-numbered year.

E. No candidate's name shall be placed on the

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

F. If a candidate is notified by the proper filing officer that the candidate is not qualified to have the candidate's name appear on the ballot, the candidate may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

SECTION 6. A new section of the Election Code is enacted to read:

"NOMINATING PETITION FOR CANDIDATE OF AN UNQUALIFIED STATE POLITICAL PARTY--QUALIFICATION AS AN INDEPENDENT CANDIDATE.--The declaration of candidacy and petition signatures submitted to the proper filing officer by a candidate for nomination as a minor party candidate shall be

counted toward the requirements for qualification as an independent candidate for the same office in the same election if the candidate's party files for, but does not obtain status as, a qualified political party in that election cycle. To qualify as an independent candidate, the candidate must meet all requirements for an independent candidate in Section 1-8-45 NMSA 1978 and submit the required number of petition signatures for an independent candidate as prescribed in Section 1-8-51 NMSA 1978. No candidate may circulate petitions for candidacy for more than one political party in an election cycle."

SECTION 7. A new section of the Election Code is enacted to read:

"MINOR POLITICAL PARTY CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITION FORM.--

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

B. In making a declaration of candidacy, the candidate shall file a nominating petition at the same time,

which shall be on forms prescribed by law.

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

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

I, the undersigned, a registered voter of New Mexico, hereby nominate _____, who resides at _____ in the county of _____, New Mexico, for the _____ party nomination for the office of _____ to be voted for at the general election or United States representative special election to be held on _____, and I declare that I am a registered voter of the area to be represented by the office for which the person being nominated is a candidate. I also declare that I have not signed, and will not sign, any nominating petition for more persons than the number of candidates necessary to fill such office at the next ensuing general election or at a United States representative special election. I understand that if the candidate's political party does not qualify as a minor political party, the candidate may run as an unaffiliated independent candidate.

B. Declarations of independent candidacy and nominating petitions for the office of president of the United States shall be filed with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the twenty-third day following the primary election."

SECTION 9. Section 1-12-19.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 2, as amended) is amended to read:

"1-12-19.1. GENERAL ELECTIONS--SPECIAL ELECTIONS--WRITE-IN CANDIDATES.--

A. A person desiring to be a write-in candidate in a general election shall file with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election a declaration of intent to be a write-in candidate. A person desiring to be a write-in candidate in a special election for United States representative or a statewide special election shall file with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the sixty-third day immediately preceding the election a declaration of intent to be a write-in candidate.

B. The form of the declaration of intent shall be prescribed by the secretary of state and shall contain a sworn statement by the candidate that the candidate is qualified to be a candidate for and to hold the office for which the candidate is filing.

C. At the time of filing the declaration of intent

to be a write-in candidate, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Election Code, including the obligation to report under the Campaign Reporting Act, except that the candidate shall not be entitled to have the candidate's name printed on the ballot.

D. The secretary of state shall, not more than ten days after the filing date, certify the names of the declared write-in candidates to the county clerks of every county affected by such candidacy.

E. No person shall be a write-in candidate in the general election who was a candidate in the primary election immediately prior to the general election. A write-in candidate for governor or lieutenant governor in the general election shall have a companion write-in candidate, and they shall be candidates to be elected jointly by the casting by a voter of a single vote applicable to both offices.

F. A vote for a write-in candidate shall be counted and canvassed only if:

(1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of intent to be a write-in candidate and misspellings of the above combinations that can be reasonably

determined by a majority of the members of the precinct board to identify a declared write-in candidate; and

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

G. No unopposed write-in candidate shall have an election certified unless the candidate receives at least the number of write-in votes equal to two percent of the total vote in the state, district or county in which the candidate seeks election that were cast for governor in the last preceding general election in which a governor was elected.

H. A write-in vote shall be cast by writing in the name. As used in this section, "write-in" does not include the imprinting of any name by rubber stamp or similar device or the use of preprinted stickers or labels."

SECTION 10. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____