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HOUSE BILL 425

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

EDWARD C. SANDOVAL

AN ACT

RELATING TO ELECTIONS; ESTABLISHING NOMINATING PETITION PROCEDURES, WRITE-IN CANDIDACY PROCEDURES AND OTHER ELECTION PROCEDURES FOR THE PUBLIC REGULATION COMMISSION; AMENDING SECTIONS OF THE ELECTION CODE.

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

Section 1. 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 and regulations of a minor political party require nomination by political convention:

(1) the chairman 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,

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

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

11 B. The names certified to the secretary of state  
12 shall be filed on the second Tuesday in July in the year of  
13 the general election and shall be accompanied by a petition  
14 containing a list of signatures and addresses of voters  
15 totaling not less than one percent of the total number of  
16 votes cast at the last preceding general election for the  
17 office of governor or president of the United States, as the  
18 case may be:

19 (1) in the state for statewide offices; and  
20 (2) in the district for offices other than  
21 statewide offices.

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

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1           C. The names certified to the county clerk shall  
2 be filed on the second Tuesday in July in the year of the  
3 general election and shall be accompanied by a petition  
4 containing a list of signatures and addresses of voters  
5 totaling not less than one percent of the total number of  
6 votes cast at the last preceding general election for the  
7 office of governor or president of the United States, as the  
8 case may be:

9                   (1) in the county for countywide offices; and

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

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

16           D. Persons certified as nominees shall be members  
17 of that party before the day the governor issues the primary  
18 election proclamation.

19           E. No voter shall sign any petition prescribed by  
20 this section for more persons than the number of minor party  
21 candidates necessary to fill the office at the next ensuing  
22 general election. "

23           Section 2. Section 1-8-3 NMSA 1978 (being Laws 1969,  
24 Chapter 240, Section 153, as amended) is amended to read:

25           "1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER

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1 METHODS. -- If the rules and regulations of a minor political  
2 party require nomination by a method other than a political  
3 convention:

4 A. the state chairman and the governing board of  
5 the state party shall certify to the secretary of state the  
6 names of their party's nominees for United States senator,  
7 United States representative, all elective state offices,  
8 legislative offices elected from multicounty districts, public  
9 regulation commission, all elective judicial officers in the  
10 judicial department and all offices representing a district  
11 composed of more than one county;

12 B. the county chairman and the governing board of  
13 the county party shall certify to the county clerk the names  
14 of their party's nominees for elected county offices and for  
15 legislative offices elected from a district located wholly  
16 within one county or [~~which~~] that is composed of only one  
17 county; and

18 C. the names of such nominees shall be filed in  
19 the same time and manner prescribed by the Election Code for  
20 convention-designated nominees of minor political parties, and  
21 each list of names certified shall be accompanied by the  
22 petition containing a list of signatures and addresses of  
23 voters as prescribed for convention-designated nominees. "

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

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1           "1-8-13. PRIMARY ELECTION LAW - CONTENTS OF  
2 PROCLAMATION. -- The proclamation calling a primary election  
3 shall contain:  
4           A. the names of the major political parties  
5 participating in the primary election;  
6           B. the offices for which each political party  
7 shall nominate candidates; provided that if any law is enacted  
8 by the legislature in the year in which the primary election  
9 is held and [~~such~~] the law does not take effect until after  
10 the date of the proclamation but prior to the date of the  
11 primary election, the proclamation shall conform to the intent  
12 of [~~such~~] the law with respect to the offices for which each  
13 political party shall nominate candidates;  
14           C. the date on which declarations of candidacy and  
15 nominating petitions for United States representative, any  
16 office voted upon by all the voters of the state, a  
17 legislative office, the office of district judge, district  
18 attorney, state board of education, public regulation  
19 commission or magistrate shall be filed and the places where  
20 they shall be filed in order to have the candidates' names  
21 printed on the official ballot of their party at the primary  
22 election;  
23           D. the date on and place at which declarations of  
24 candidacy shall be filed for any other office and filing fees  
25 paid or, in lieu thereof, a pauper's statement of inability to

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1 pay;

2 E. the date on and place at which declarations of  
3 intent to be a write-in candidate for a statewide office or  
4 office of United States representative shall be filed;

5 F. the date on and place at which declarations of  
6 intent to be a write-in candidate for any other office shall  
7 be filed;

8 G. the final date on and place at which candidates  
9 for the office of United States representative and for any  
10 statewide office seeking preprimary convention designation by  
11 the major parties shall file petitions and declarations of  
12 candidacy;

13 H. the final date on which the major political  
14 parties shall hold state preprimary conventions for the  
15 designation of candidates; and

16 I. the final date on and place at which  
17 certificates of designation of primary election candidates  
18 shall be filed by political parties with the secretary of  
19 state.

20 As used in the Primary Election Law, "statewide office"  
21 means any office voted on by all the voters of the state. "

22 Section 4. Section 1-8-25 NMSA 1978 (being Laws 1969,  
23 Chapter 240, Section 170, as amended) is amended to read:

24 "1-8-25. PRIMARY ELECTION LAW-DECLARATION OF CANDIDACY--  
25 PROPER FILING OFFICER.--The proper filing officer for filing

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1 declarations of candidacy is:

2 A. the secretary of state for the offices of:

- 3 (1) United States senator;
- 4 (2) United States representative;
- 5 (3) all state elective offices;
- 6 (4) legislative offices elected from

7 multicounty districts;

8 (5) all public regulation commission  
9 districts;

10 [~~(5)~~] (6) all elective judicial offices in the  
11 judicial department, except magistrates; and

12 [~~(6)~~] (7) all offices representing a district  
13 composed of more than one county; and

14 B. the county clerk for the offices of:

- 15 (1) all elective county offices;
- 16 (2) magistrates; and
- 17 (3) legislative offices elected from a

18 district located wholly within one county or [~~which~~] that is  
19 composed of only one county. "

20 Section 5. Section 1-8-33 NMSA 1978 (being Laws 1973,  
21 Chapter 228, Section 7, as amended) is amended to read:

22 "1-8-33. PRIMARY ELECTION LAW - NOMINATING PETITION--  
23 NUMBER OF SIGNATURES REQUIRED. --

24 A. As used in this section, "total vote" means the  
25 sum of all votes cast for all of the party's candidates for

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1 governor at the last preceding primary election at which the  
2 party's candidate for governor was nominated.

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

12 C. Nominating petitions for candidates for any  
13 other office to be voted on at the primary election for which  
14 nominating petitions are required shall be signed by a number  
15 of voters equal to at least three percent of the total vote of  
16 the candidate's party in the district or division, or the  
17 following number of voters, whichever is greater: for  
18 metropolitan court and magistrate courts, ten voters; for the  
19 public regulation commission, fifty voters; for the state board  
20 of education, twenty-five voters; for state representative, ten  
21 voters; for state senator, seventeen voters; and for district  
22 attorney and district judge, fifteen voters.

23 D. A candidate who fails to receive the preprimary  
24 convention designation that he sought may collect additional  
25 signatures to total at least four percent of the total vote of

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1 the candidate's party in the state or congressional district,  
2 whichever applies to the office he seeks, and file a new  
3 declaration of candidacy and nominating petitions for the  
4 office for which he failed to receive a preprimary designation.  
5 The declaration of candidacy and nominating petitions shall be  
6 filed with the secretary of state either ten days following the  
7 date of the preprimary convention at which he failed to receive  
8 the designation or on the date all declarations of candidacy  
9 and nominating petitions are due pursuant to the provisions of  
10 the Primary Election Law, whichever is later. "

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

13 "1-8-36.1. PRIMARY ELECTION LAW- WRITE-IN CANDIDATES. --

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

20 B. A person may be a write-in candidate only for  
21 nomination by the major political party with which he is  
22 affiliated as shown by his certificate of registration, and  
23 such person shall have the qualifications to be a candidate in  
24 the primary election for the political party for which he is a  
25 write-in candidate.

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1           C. A person desiring to be a write-in candidate for  
2 one of the offices listed in Subsection A of this section in  
3 the primary election shall file with the proper filing officer  
4 a declaration of intent to be a write-in candidate. Such  
5 declaration of intent shall be filed before 5:00 p.m. on the  
6 second Tuesday in March.

7           D. A write-in vote shall be counted and canvassed  
8 only if:

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

17                   (2) the name is written in the proper slot on  
18 the voting machine or on the proper line provided on an  
19 absentee ballot or emergency paper ballot for write-in votes  
20 for the office for which the candidate has filed a declaration  
21 of intent.

22           E. At the time of filing the declaration of intent  
23 to be a write-in candidate, the write-in candidate shall be  
24 considered a candidate for all purposes and provisions relating  
25 to candidates in the Election Code, including the obligations

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1 to report [~~under~~] pursuant to the Campaign Reporting Act,  
2 except that he shall not be entitled to have his name printed  
3 on the ballot.

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

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

13 Section 7. Section 1-8-48 NMSA 1978 (being Laws 1977,  
14 Chapter 322, Section 4, as amended by Laws 1993, Chapter 314,  
15 Section 50 and also by Laws 1993, Chapter 316, Section 50) is  
16 amended to read:

17 "1-8-48. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED  
18 STATES REPRESENTATIVE SPECIAL ELECTIONS--DECLARATION OF  
19 INDEPENDENT CANDIDACY AND NOMINATING PETITION. --

20 A. Nomination as an independent candidate shall be  
21 made by filing a declaration of independent candidacy and a  
22 nominating petition with the proper filing officer.

23 B. In making a declaration of independent  
24 candidacy, the candidate for an office other than that of  
25 president or vice president shall submit a sworn statement in

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1 the following form:

2 "DECLARATION OF INDEPENDENT CANDIDACY

3 I, \_\_\_\_\_ (candidate's name  
4 on certificate of registration) being first duly  
5 sworn, say that I reside at

6 \_\_\_\_\_ in the county of  
7 \_\_\_\_\_, New Mexico, and that I am a  
8 voter of Precinct No. \_\_\_\_\_ of the county of  
9 \_\_\_\_\_, State of New Mexico;

10 I have declined to designate my party  
11 affiliation as shown by my certificate of  
12 registration and I have not changed such declination  
13 subsequent to the date of issuance of the governor's  
14 proclamation for the primary election in the year of  
15 the general election at which I seek to be a  
16 candidate;

17 I desire to become a candidate for the office  
18 of \_\_\_\_\_, District \_\_\_\_\_  
19 at the general election to be held on the date set  
20 by law for this year, and if the office be that of a  
21 member of the legislature or public regulation  
22 commission, that I actually reside within the  
23 [~~legislative~~] district for which I declare my  
24 candidacy;

25 I will be eligible and legally qualified to

1 hold this office at the beginning of its term;

2 If a candidate for any office for which a  
3 nominating petition is required, I am submitting  
4 with this statement a nominating petition in the  
5 form and manner as prescribed by the Election Code;  
6 and

7 I make the foregoing affidavit under oath or  
8 affirmation knowing that any false statement herein  
9 constitutes a felony punishable under the criminal  
10 laws of New Mexico.

11 \_\_\_\_\_  
12 (Declarant)

13 \_\_\_\_\_  
14 (Mailing Address)

15 \_\_\_\_\_  
16 (Residence Address)

17 Subscribed and sworn to or affirmed before me this \_\_\_\_ day of

18 \_\_\_\_\_, [19] \_\_\_\_.

19 (month) (year)

20 \_\_\_\_\_  
21 (Notary Public)

22 My commission expires:  
23 \_\_\_\_\_".

24  
25 C. The secretary of state shall prescribe and

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1 furnish the form for the declaration of independent candidacy  
2 for the office of president and vice president. "

3 Section 8. Section 1-8-51 NMSA 1978 (being Laws 1977,  
4 Chapter 322, Section 7, as amended) is amended to read:

5 "1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED  
6 STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITIONS--  
7 REQUIRED NUMBER OF SIGNATURES.--

8 A. The basis of percentage for the total number of  
9 votes cast in each instance referred to in this section shall  
10 be the total vote cast for governor at the last preceding  
11 general election at which a governor was elected.

12 B. Nominating petitions for an independent  
13 candidate for president of the United States shall be signed by  
14 a number of voters equal to at least three percent of the total  
15 number of votes cast in the state.

16 C. Nominating petitions for an independent  
17 candidate for United States senator or any other statewide  
18 elective office shall be signed by a number of voters equal to  
19 at least three percent of the total number of votes cast in the  
20 state.

21 D. Nominating petitions for an independent  
22 candidate for United States representative shall be signed by a  
23 number of voters equal to at least three percent of the total  
24 number of votes cast in the district.

25 E. Nominating petitions for an independent

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1 candidate for a member of the legislature, public regulation  
2 commission, district judge, district attorney, member of the  
3 state board of education, magistrate or county office shall be  
4 signed by a number of voters equal to at least three percent of  
5 the total number of votes cast in the district, division or  
6 county, as the case may be.

7 F. [The] A voter shall not sign a petition for an  
8 independent candidate as provided in this section if he has  
9 signed a petition for another independent candidate for the  
10 same office. "

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3 FORTY-THIRD LEGISLATURE  
4 SECOND SESSION, 1998  
5  
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8 February 6, 1998  
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11 Mr. Speaker:  
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13 Your RULES AND ORDER OF BUSINESS COMMITTEE, to  
14 whom has been referred  
15

16 HOUSE BILL 425  
17

18  
19 has had it under consideration and finds same to be GERMANE  
20 in accordance with constitutional provisions.  
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22 Respectfully submitted,  
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\_\_\_\_\_  
R. David Pederson, Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Nicely, Ryan, Sanchez, Taylor, J.G., Williams, S.M

Absent: None

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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 February 14, 1998  
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8 Mr. Speaker:  
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10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has  
11 been referred  
12

13 HOUSE BILL 425  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

17 1. On page 1, line 14, following "CODE" insert "; DECLARING  
18 AN EMERGENCY".  
19

20 2. On page 15, line 11, insert the following new section:  
21

22 "Section 9. EMERGENCY.--It is necessary for the  
23 public peace, health and safety that this act take effect  
24 immediately. ".  
25

FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

HVEC/HB 425

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Respectfully submitted,

\_\_\_\_\_  
Edward C. Sandoval, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Coll, Lujan, Lutz, Nicely, Sanchez

Absent: None

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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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4 February 18, 1998  
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6 Mr. President:

7  
8 Your RULES COMMITTEE, to whom has been referred

9 HOUSE BILL 425, as amended  
10

11 has had it under consideration and reports same with  
12 recommendation that it DO PASS.  
13

14  
15 Respectfully submitted,  
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17  
18 \_\_\_\_\_  
19 Gloria Howes, Chairman  
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21  
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23 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
24 (Chief Clerk) (Chief Clerk)  
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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Aragon, Gorham, Rodarte

Absent: None

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