



State of New Mexico  
House of Representatives  
Santa Fe

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April 2, 2019

The Honorable Maggie Toulouse Oliver  
Office of the Secretary  
New Mexico Secretary of State  
325 Don Gaspar Ave. #300  
Santa Fe, NM 87501

Dear Madam Secretary,

On March 11, 2019, I sent a notice of intent to exercise my constitutionally protected right of petitioning for a public referendum on Senate Bill 8 that was passed during the 2019 legislative session. Your office rejected my proposed petition citing five deficiencies:

1. "You have failed to submit a suggested popular name for the law, which is the object of the petition (Section 1-17-8 (A));"
2. "You have failed to submit a referendum petition wherein "each page...upon which signatures of petitioners are to be solicited are an exact copy of all other pages of the referendum petition," (Section 1-17-5 (A));"
3. "You have added the signature of the Secretary of State on page 2, when no such signature is required by law (Sections 1-17-1 to-14)";"
4. "You have failed to submit a referendum petition in the form proscribed by Section 1-17-2; and"
5. "Under Article IV, Section 1 of the New Mexico Constitution, Chapter 45 of New Mexico Laws of 2019, An Act Relating to Crime, Requiring a Background Check When Conducting Sales of Firearm; Providing Penalties is a law providing for the public peace, health and safety. Therefore, it is not a law subject to referendum."

I am submitting a draft petition with the following items addressed:

In regards to Item 1 and as required by NMSA Section 1-17-8 (A), the letter I submitted on March 11<sup>th</sup> cited the suggested popular name for the law in question as "Mandating Citizens Background Checks". This citation fulfills the statutory requirement.

In response to Items 2 and 4, I reduced the font size to allow for the statutory authority, instructions, and signatures to appear on one page. The format now satisfies the requirement that each page upon which

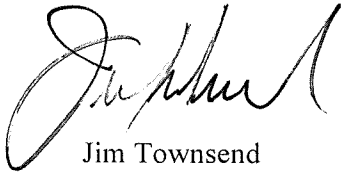
signatures are solicited will be an exact copy “except as to the county name and actual signatures.” (Section 1-17-5 (A)). It also fulfills the requirement that each petition be in the form proscribed by Section 1-17-2.

In response to Item 3, the signature line for the Secretary of State was removed.

As for Item 5, I disagree with the arguments you presented in your letter. Neither the Secretary of State nor the Attorney General has the authority to unilaterally determine if a given piece of legislation meets the public peace, health and safety standard described in the New Mexico Constitution. The New Mexico Courts have reserved that prerogative. The Secretary of State’s responsibility is to ensure that the petitioning process is correctly followed and any petition put before the public conforms to the format set by the State Constitution. Any ruling beyond matters of form and process exceeds the bounds of your office.

Once again, Senate Bill 8 is subject to the referendum process provided for in the New Mexico Constitution. I am submitting a petition calling for a public test of this legislation to your office for review and approval. Senate Bill 8 proposes to place restrictions on the rights protected in Article 2 Section 6 of the New Mexico Constitution and, of course, the federally guaranteed Second Amendment rights of New Mexicans. New Mexicans are constitutionally permitted to decide by referendum their choice on this consequential legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Townsend". The signature is written in a cursive, flowing style with a large initial "J".

Jim Townsend  
House Republican Leader