

Opinion No. 49-5220

June 3, 1949

BY: JOE L. MARTINEZ, Attorney General

TO: Mrs. Alicia Romero Secretary of State Santa Fe, New Mexico

{*47} I have your letter of June 2, 1949, asking the opinion of this office as to the deadline for filing referendum petitions, either for placing questions before the people at the next general election, or for the purpose of suspending the effectiveness of certain laws passed by the 19th Legislature.

Section 1 of Article 4 of the Constitution of New Mexico provides, in part, as follows:

"Petitions disapproving any law other than those above excepted, enacted at the last preceeding session of the Legislature, shall be filed with the Secretary of State not less than four months prior to the next general election. Such petitions shall be signed by not less than ten per centum of the qualified electors of each of three-fourths of the counties and in the aggregate by not less than ten per centum of the qualified electors of the state, as shown by the total number of votes cast at the last preceding general election. * * * * If such petition or petitions be signed by not less than twenty-five per centum of the qualified electors under each of the foregoing conditions, and be filed with the Secretary of State within 90 days after the adjournment of the session of the legislature at which such law was enacted, the operation thereof shall be thereupon suspended and the question of its approval or rejection shall be likewise submitted to a vote at the next ensuing general election."

Petitions disapproving any law passed by the 19th Legislature, unless such law is exempt from referendum by the Constitution, should be accepted by you at any time until July 7, 1950, which is four months prior to the next general election. For such petitions to have the effect of suspending the law, they must be filed with you within 90 days after the adjournment of the session making them and, of course, must contain the requisite number of bona fide signatures of qualified electors.

While Section 1 of Article 4 of the Constitution provides that the petitions must be filed with the Secretary of State "within 90 days after the adjournment of the session of the legislature at {*48} which such law was enacted", in order to suspend the law, Section 23 of Article 4 provides: "Laws shall go into effect 90 days after the adjournment of the Legislature enacting them." As a result of the slight difference in language of the two sections, it might be contended that petitions filed the first day the law goes into effect would have the effect of suspending the law. However, we feel that this question has been foreclosed by the decision of the Supreme Court of New Mexico in *Todd v. Tierney*, 38 N.M. 15, 27 P.2d 991, which held that the suspension of a law contemplates a law which has not as yet gone into effect. Since this office has previously ruled in Opinion No. 5215 that laws passed by the 19th Legislature go into effect on June 10,

1949, at 12:00 o'clock noon, it is the opinion of this office that any referendum petitions filed after that time will not have the effect of suspending any law.