

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 418

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO PRIMARY ELECTIONS; ALLOWING POLITICAL PARTIES TO
ALLOW NON-MEMBERS TO PARTICIPATE IN THE PRIMARY ELECTION
PROCESS.

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

SECTION 1. A new section of the Election Code is enacted
to read:

"[NEW MATERIAL] VOTER PARTICIPATION IN PRIMARY ELECTION
PROCESS--PARTY RULES ON NOMINATION SELECTION PROCESS.--

A. Each qualified political party may provide in
its rules for participation of non-party members in the party's
nomination process. To change who may participate in a party
nomination process, including the primary election process, the
rules must be filed with the secretary of state at least thirty
days before the governor is required to issue the proclamation

.214358.1

underscored material = new
[bracketed material] = delete

1 of the primary election. The nomination process of a qualified
2 political party that fails to provide in its rules for
3 participation of non-party members shall be limited to members
4 of that political party only.

5 B. In making rules on who may participate in the
6 party's nomination and primary election process, a political
7 party's rules may allow participation by:

8 (1) voters who are members of that political
9 party only;

10 (2) voters who are members of that political
11 party and voters who are not members of any qualified political
12 party;

13 (3) voters who are members of that political
14 party and those voters who are not members of a major political
15 party; or

16 (4) any voter."

17 SECTION 2. Section 1-12-7 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 246, as amended) is amended to read:

19 "1-12-7. CONDUCT OF ELECTION--PERSONS NOT PERMITTED TO
20 VOTE.--

21 A. A person shall not vote in a primary, general or
22 statewide special election unless ~~[he]~~ the person is a voter of
23 the county in which ~~[he]~~ the person offers to vote. A valid
24 original certificate of registration in the county register is
25 prima facie evidence of being a voter in the precinct.

.214358.1

1 ~~[B. A person whose major party affiliation is not~~
 2 ~~designated on his original certificate of registration shall~~
 3 ~~not vote in a primary election.~~

4 G.] B. A person at a primary election shall not be
 5 permitted to vote for the candidate of any party other than the
 6 party designated on [his] the person's current certificate of
 7 registration unless that party's rules allow that type of non-
 8 member to participate in the party's primary election process.
 9 If more than one party that is participating in the primary
 10 election allows non-members to participate in the party's
 11 primary election process, those persons shall be allowed to
 12 choose the ballot of only one of the parties participating in
 13 the primary election and may vote only for candidates on that
 14 ballot in the primary election."

15 SECTION 3. Section 1-12-7.1 NMSA 1978 (being Laws 1969,
 16 Chapter 240, Section 112, as amended) is amended to read:

17 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF
 18 VOTERS--USE DURING ELECTION.--

19 A. At each election day polling location, other
 20 than a consolidated precinct where any voter in the county may
 21 vote, the precinct board shall post securely at or near the
 22 entrance of the polling place one copy of an alphabetical list
 23 of voters and a map of the precincts represented in that
 24 polling place for use of the voters prior to voting. The
 25 posted copy shall not contain a listing of voter addresses,

.214358.1

1 years, months or days of birth or social security numbers.

2 B. At each polling location where physical rosters
3 are used, the presiding judge of the precinct board shall
4 assign one judge or election clerk of the board to be in charge
5 of one copy of the checklist of voters, which shall be used to
6 confirm the registration and voting of each person offering to
7 vote.

8 C. The presiding judge of the precinct board shall
9 assign one judge or election clerk to be in charge of the
10 signature roster.

11 D. The judge or election clerk assigned to confirm
12 registration shall determine that each person offering to vote
13 is registered and, in the case of a primary election, that the
14 voter is either registered in a party designated on the primary
15 election ballot or is the type of non-member who is allowed to
16 participate in the party's primary election process. If the
17 person's registration is confirmed and the voter provides the
18 required voter identification, the judge or election clerk
19 shall announce to the judges or election clerks the list number
20 and the name of the voter as shown on the checklist of voters.
21 If the voter does not provide the required voter
22 identification, the voter shall be allowed to vote on a
23 provisional paper ballot and shall provide the required voter
24 identification to the county clerk's office before 5:00 p.m. on
25 the second day following the election, or to the precinct board

.214358.1

1 before the polls close, or the voter's provisional ballot shall
2 not be qualified. If the required voter identification is
3 provided, the voter's provisional paper ballot shall be
4 qualified and the voter shall not vote on any other type of
5 ballot.

6 E. The judge or election clerk shall locate the
7 name on the signature roster and shall require the voter to
8 sign the voter's usual signature or, if unable to write, to
9 make the voter's mark opposite the voter's printed name. If
10 the voter makes the voter's mark, it shall be witnessed by one
11 of the judges or election clerks of the precinct board.

12 F. If the signature roster indicates that the voter
13 is required to present a physical form of identification before
14 voting, the judge or election clerk shall ask the voter for the
15 required physical form of identification. If the voter does
16 not provide the required identification, the voter shall be
17 allowed to vote on a provisional paper ballot; provided,
18 however, that if the voter brings the required physical form of
19 identification to the polling place after casting a provisional
20 paper ballot, that ballot shall be qualified.

21 G. The judge or election clerk shall follow the
22 procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA
23 1978 if a person whose name does not appear on the signature
24 roster requests to vote or a person is required to vote on a
25 provisional paper ballot.

.214358.1

1 H. A voter shall not be permitted to vote until the
2 voter has properly signed the voter's usual signature or made
3 the voter's mark in the signature roster."

4 **SECTION 4.** Section 1-12-7.2 NMSA 1978 (being Laws 1969,
5 Chapter 240, Section 114, as amended) is amended to read:

6 "1-12-7.2. VOTER WHOSE NAME IS NOT ON LIST OR ROSTER.--

7 A. A voter whose name does not appear on the voter
8 list and signature roster for the precinct in which the voter
9 offers to vote shall be permitted to vote in the precinct
10 pursuant to the federal National Voter Registration Act of 1993
11 and Section 1-12-8 NMSA 1978.

12 B. The judges or election clerks in charge of the
13 signature rosters shall add the voter's name and address in ink
14 to the signature roster on the line immediately following the
15 last entered voter's name, and the voter shall be allowed to
16 sign an affidavit of eligibility and cast a provisional paper
17 ballot, provided the voter has first signed or marked both the
18 signature roster and checklist of registered voters.

19 C. The provisional paper ballot tracking number for
20 the voter shall be entered on the affidavit of eligibility, the
21 signature roster and the checklist of registered voters.

22 D. In a primary election, a voter shall not be
23 permitted to vote for a candidate of a party different from the
24 party designation shown on the voter's certificate of
25 registration unless the voter is the type of non-member who is

.214358.1

1 allowed to participate in the party's primary election process.
2 For a voter who is the type of non-member who is allowed to
3 participate in a party's primary election process, the voter
4 may choose the ballot of only one of the parties participating
5 in the primary election that allows such voters to participate
6 in the party's primary election process and shall vote only on
7 that political party's ballot in the election. Upon making
8 that determination, the county clerk shall transmit the ballot
9 to the county canvassing board to be tallied and included in
10 the canvass of that county for the appropriate precinct."

11 SECTION 5. Section 1-12-20 NMSA 1978 (being Laws 1969,
12 Chapter 240, Section 273, as amended) is amended to read:

13 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
14 challenge may be interposed by a member of the precinct board
15 or by a party challenger for the following reasons:

16 A. the person offering to vote is not registered to
17 vote;

18 B. the person offering to vote is listed among
19 those persons to whom an absentee ballot was mailed;

20 C. the person offering to vote has already cast a
21 ballot in that election;

22 D. the person offering to vote is improperly
23 registered because the person is not a qualified elector; or

24 E. in the case of a primary election, the person
25 desiring to vote is not [~~affiliated with~~] a voter allowed to

.214358.1

1 vote for the political party represented on the ballot."

2 SECTION 6. Section 1-15A-2 NMSA 1978 (being Laws 1977,
3 Chapter 230, Section 2, as amended) is amended to read:

4 "1-15A-2. PRESIDENTIAL PRIMARY--DATE OF ELECTION.--

5 A. In the year in which the president and vice
6 president of the United States are to be elected, the
7 registered voters of this state shall be given an opportunity
8 to express their preference for the person to be the
9 presidential candidate of their political party in either a
10 presidential primary election or in accordance with the
11 selection procedure for presidential candidates of each voter's
12 party.

13 B. A voter may vote in a presidential primary
14 election on the ballot of only one of the parties participating
15 in the primary election and only if the rules of that party
16 allow such voters to participate in that party's presidential
17 primary election.

18 C. The presidential primary election shall be held
19 on the same date as the primary election is held in this
20 state."

21 SECTION 7. Section 1-15A-8 NMSA 1978 (being Laws 1977,
22 Chapter 230, Section 7, as amended) is amended to read:

23 "1-15A-8. VOTING IN PRESIDENTIAL PRIMARY--BALLOT
24 POSITION.--

25 A. All candidates in the presidential primary

1 election shall appear with the candidates for other offices of
 2 their respective parties at an appropriate place on the ballot.
 3 Candidates who are nominated by committee and by petition shall
 4 be placed first as a group on the presidential primary ballot
 5 ~~[with each candidate's respective position in that group~~
 6 ~~determined by the provisions of the Ballot Positioning Act]~~.
 7 The ballot position for the uncommitted category shall be
 8 placed last on the presidential primary ballot.

9 B. The voter shall be able to cast ~~[his]~~ a ballot
 10 for one of the presidential candidates ~~[of his party]~~ in
 11 accordance with party rules or for an uncommitted delegation.
 12 A vote of the latter kind shall express the preference for an
 13 uncommitted delegation from New Mexico to the national
 14 convention of that ~~[voter's]~~ party."

15 **SECTION 8. EFFECTIVE DATE.**--The effective date of the
 16 provisions of this act is July 1, 2019.

underscored material = new
 [bracketed material] = delete