

1 SENATE BILL 16

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PRIMARY ELECTIONS; ALLOWING VOTERS WHO HAVE NOT  
12 DESIGNATED A MAJOR POLITICAL PARTY AFFILIATION ON THEIR  
13 CERTIFICATES OF REGISTRATION TO PARTICIPATE IN THE PRIMARY  
14 ELECTION PROCESS BY CHOOSING TO AFFILIATE WITH A MAJOR  
15 POLITICAL PARTY PARTICIPATING IN A PRIMARY BY REQUESTING THE  
16 PARTY'S BALLOT; MAKING CONFORMING CHANGES.

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

19 SECTION 1. Section 1-4-15 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 71, as amended) is amended to read:

21 "1-4-15. REGISTRATION--CHANGE OF PARTY AFFILIATION.--

22 A. A voter may change the voter's designated party  
23 affiliation by executing a new certificate of registration  
24 indicating the change of party affiliation.

25 B. A voter who has previously declined to designate

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1 a party affiliation on the voter's certificate of registration  
2 but who desires to designate a party affiliation on the voter's  
3 certificate of registration shall execute a new certificate of  
4 registration indicating the desired party affiliation.

5 C. A voter who does not designate on the  
6 certificate of registration a party affiliation shall be  
7 considered to have declined to designate a party affiliation.

8 D. A voter who has declined to designate on the  
9 voter's certificate of registration a party affiliation, or who  
10 designated affiliation with a party other than a major  
11 political party on the voter's certificate of registration, but  
12 who chooses to affiliate with a major political party that is  
13 participating in a primary election may do so by requesting the  
14 ballot of one of the parties participating in that primary  
15 election. The voter's certificate of registration shall not be  
16 changed to reflect a new or different party affiliation unless  
17 the voter so requests in accordance with the provisions of  
18 Subsection B of this section."

19 SECTION 2. Section 1-6-4 NMSA 1978 (being Laws 1969,  
20 Chapter 240, Section 130, as amended) is amended to read:

21 "1-6-4. MAILED BALLOT APPLICATION.--

22 A. In a statewide election, application by a voter  
23 for a mailed ballot shall be made only on the official form  
24 approved by the secretary of state or its online equivalent  
25 accessed through a website authorized by the secretary of

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1 state. The form shall identify the applicant and contain  
2 information to establish the applicant's qualification for  
3 issuance of a mailed ballot under the Absent Voter Act. A  
4 voter affiliated with a party other than a major political  
5 party, but who chooses to affiliate with a major political  
6 party participating in a primary election, shall be provided  
7 the option on the application form for a mailed ballot in a  
8 primary election to request the ballot of one of the parties  
9 participating in the primary election.

10 B. Each application on a paper form for a mailed  
11 ballot shall be signed by the applicant and shall require the  
12 applicant's printed name, registration address and year of  
13 birth. When submitted by the voter, the county clerk shall  
14 accept an application for a mailed ballot pursuant to this  
15 subsection regardless of whether the application for a mailed  
16 ballot is delivered to the county clerk on paper or by  
17 electronic means. When submitted by a third party, the county  
18 clerk shall not accept an application for a mailed ballot  
19 pursuant to this subsection if the application for a mailed  
20 ballot is delivered by electronic means.

21 C. The secretary of state shall allow a voter to  
22 submit an online application for a mailed ballot through a  
23 website authorized by the secretary of state; provided that the  
24 voter shall have a current or expired New Mexico driver's  
25 license or state identification card issued by the motor

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1 vehicle division of the taxation and revenue department. An  
2 online request for a mailed ballot shall contain all of the  
3 information that is required for a paper form. The voter shall  
4 also provide the person's full New Mexico driver's license  
5 number or state identification card number.

6 D. When a voter requests a mailed ballot pursuant  
7 to this section, the voter shall mark the box associated with  
8 the following statement, which shall be included as part of the  
9 online mailed ballot request form:

10 "By clicking the boxes below, I swear or affirm all of the  
11 following:

12 [ ] I am the person whose name and identifying  
13 information is provided on this form and I desire to request a  
14 mailed ballot to vote in the state of New Mexico; and

15 [ ] All of the information that I have provided on  
16 this form is true and correct as of the date I am submitting  
17 this form."

18 E. Online applications for mailed ballots shall  
19 retain the dates of submission by the qualified elector and of  
20 acceptance by the county clerk. For purposes of deadlines  
21 contained in the Election Code, the time and date of the  
22 submission by the voter shall be considered the time and date  
23 when the application for a mailed ballot is received by the  
24 county clerk.

25 F. New registrants who registered for the first

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1 time in this state by mail and at that time did not provide  
2 acceptable documentary identification as required by federal  
3 law shall be informed of the need to comply with federal  
4 identification requirements when returning the requested ballot  
5 and notified that if the registrant votes for the first time in  
6 New Mexico by mail and does not follow the instructions for  
7 returning the required documentary identification, the  
8 registrant waives the right to secrecy in that mailed ballot.  
9 The secretary of state shall issue rules to exempt voters from  
10 submitting identification only as required by federal law and  
11 shall review and, if necessary, update these rules no later  
12 than March 15 of even-numbered years.

13 G. A person who willfully and with knowledge and  
14 intent to deceive or mislead any voter, election board,  
15 canvassing board, county clerk or other election official and  
16 who falsifies any information on an absentee ballot request  
17 form or who affixes a signature or mark other than the person's  
18 own on a mailed ballot request form is guilty of a fourth  
19 degree felony."

20 SECTION 3. Section 1-6-22.1 NMSA 1978 (being Laws 2009,  
21 Chapter 251, Section 1 and Laws 2009, Chapter 274, Section 1,  
22 as amended) is amended to read:

23 "1-6-22.1. MAIL BALLOT ELECTION PRECINCT--ABSENTEE VOTING  
24 IN LIEU OF POLLING PLACE.--

25 A. Notwithstanding the provisions of Sections  
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1 1-1-11 and 1-1-12 NMSA 1978, not later than the first Monday in  
2 November of each odd-numbered year, a board of county  
3 commissioners may designate a precinct as a mail ballot  
4 election precinct if, upon a written request of the county  
5 clerk, it finds that the precinct has fewer than one hundred  
6 voters and the nearest polling place for an adjoining precinct  
7 is more than twenty miles driving distance from the boundary  
8 for the precinct in question.

9 B. If a precinct is designated a mail ballot  
10 election precinct, in addition to the notice required pursuant  
11 to Section 1-3-8 NMSA 1978, the county clerk shall notify by  
12 mail with delivery confirmation all voters in that precinct at  
13 least forty-two days before an election that each voter will be  
14 sent an absentee ballot twenty-eight days before the election  
15 and that there will be no polling place for the precinct on  
16 election day. The county clerk shall include in the notice a  
17 card informing the voter that if the voter does not want to  
18 receive an absentee ballot for that election, the voter should  
19 return the card before the date the county clerk is scheduled  
20 to mail out absentee ballots. The notice shall also inform the  
21 voter that a voting system equipped for persons with  
22 disabilities will be available at all early voting locations  
23 before election day and in the office of the county clerk on  
24 election day in case the voter prefers to vote in person and  
25 not by mail. In addition, the notice shall inform the voter of

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1 the ability of the voter to cast a ballot at any voter  
2 convenience center on election day if the voter chooses not to  
3 receive an absentee ballot, or to cast a replacement ballot at  
4 any early voting location or voter convenience center if the  
5 voter does not receive an absentee ballot, which will be  
6 counted upon confirmation that the voter has not returned the  
7 absentee ballot. The notice shall also contain the information  
8 required in the voter notification sent by the secretary of  
9 state on behalf of each county clerk in advance of a statewide  
10 election pursuant to Section 1-11-4.1 NMSA 1978.

11 C. For a primary election, the notice sent to  
12 voters who have not designated a party affiliation on their  
13 certificates of registration, or who designated affiliation  
14 with a party other than a major political party on the voter's  
15 certificate of registration, shall inform such voters that the  
16 voters may return the card and indicate which major political  
17 party's ballot the voter chooses for that primary election or  
18 log on to a website hosted by the secretary of state to  
19 indicate which major political party's ballot the voter chooses  
20 for that primary election.

21 [~~C.~~] D. The county clerk shall mail each voter in  
22 the mail ballot election precinct an absentee ballot on the  
23 twenty-eighth day before an election, unless the voter has  
24 requested otherwise or does not return the card required by  
25 Subsection C of this section indicating which party ballot the

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1 voter chooses for that election, along with a notice that there  
2 will be no polling place in that precinct on election day."

3 SECTION 4. Section 1-12-7 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 246, as amended) is amended to read:

5 "1-12-7. CONDUCT OF ELECTION--PERSONS NOT PERMITTED TO  
6 VOTE--PERSONS PERMITTED TO VOTE UPON CHOOSING TO AFFILIATE WITH  
7 A PARTY.--

8 A. A person shall not vote in a primary, general or  
9 statewide special election unless [he] the person is a voter of  
10 the county in which [he] the person offers to vote. A valid  
11 original certificate of registration in the county register is  
12 prima facie evidence of being a voter in the precinct.

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

16 ~~G.]~~ B. A person at a primary election shall not be  
17 permitted to vote for the candidate of any party other than the  
18 party designated on [his] the person's current certificate of  
19 registration; provided that a person who has declined to  
20 designate a political party affiliation on the person's  
21 certificate of registration, or who designated affiliation with  
22 a party other than a major political party on the voter's  
23 certificate of registration, shall be permitted to choose to  
24 affiliate with a major political party in a primary election by  
25 requesting a major political party's primary election ballot

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1 and shall be permitted to vote for the candidates on that  
2 party's ballot."

3 SECTION 5. Section 1-12-7.1 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 112, as amended) is amended to read:

5 "1-12-7.1. VOTER LISTS--SIGNATURE ROSTERS--CHECKLIST OF  
6 VOTERS--USE DURING ELECTION.--

7 A. At each election day polling location, other  
8 than a consolidated precinct where any voter in the county may  
9 vote, the precinct board shall post securely at or near the  
10 entrance of the polling place one copy of an alphabetical list  
11 of voters and a map of the precincts represented in that  
12 polling place for use of the voters prior to voting. The  
13 posted copy shall not contain a listing of voter addresses,  
14 years, months or days of birth or social security numbers.

15 B. At each polling location where physical rosters  
16 are used, the presiding judge of the precinct board shall  
17 assign one judge or election clerk of the board to be in charge  
18 of one copy of the checklist of voters, which shall be used to  
19 confirm the registration and voting of each person offering to  
20 vote.

21 C. The presiding judge of the precinct board shall  
22 assign one judge or election clerk to be in charge of the  
23 signature roster.

24 D. The judge or election clerk assigned to confirm  
25 registration shall determine that each person offering to vote

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1 is registered and, in the case of a primary election, that the  
2 voter is either currently registered in a party designated on  
3 the primary election ballot or has declined to designate a  
4 party affiliation on the voter's certificate of registration,  
5 or who designated affiliation with a party other than a major  
6 political party on the voter's certificate of registration, and  
7 chooses to affiliate with a major political party for that  
8 primary election by requesting a ballot of a party designated  
9 on the primary election ballot. If the person's registration  
10 is confirmed and the voter provides the required voter  
11 identification, the judge or election clerk shall announce to  
12 the judges or election clerks the list number and the name of  
13 the voter as shown on the checklist of voters. If the voter  
14 does not provide the required voter identification, the voter  
15 shall be allowed to vote on a provisional paper ballot and  
16 shall provide the required voter identification to the county  
17 clerk's office before 5:00 p.m. on the second day following the  
18 election, or to the precinct board before the polls close, or  
19 the voter's provisional ballot shall not be qualified. If the  
20 required voter identification is provided, the voter's  
21 provisional paper ballot shall be qualified and the voter shall  
22 not vote on any other type of ballot.

23 E. The judge or election clerk shall locate the  
24 name on the signature roster and shall require the voter to  
25 sign the voter's usual signature or, if unable to write, to

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1 make the voter's mark opposite the voter's printed name. If  
2 the voter makes the voter's mark, it shall be witnessed by one  
3 of the judges or election clerks of the precinct board.

4 F. If the signature roster indicates that the voter  
5 is required to present a physical form of identification before  
6 voting, the judge or election clerk shall ask the voter for the  
7 required physical form of identification. If the voter does  
8 not provide the required identification, the voter shall be  
9 allowed to vote on a provisional paper ballot; provided,  
10 however, that if the voter brings the required physical form of  
11 identification to the polling place after casting a provisional  
12 paper ballot, that ballot shall be qualified.

13 G. The judge or election clerk shall follow the  
14 procedures provided for in Sections 1-12-7.2 and 1-12-8 NMSA  
15 1978 if a person whose name does not appear on the signature  
16 roster requests to vote or a person is required to vote on a  
17 provisional paper ballot.

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

21 SECTION 6. Section 1-12-7.2 NMSA 1978 (being Laws 1969,  
22 Chapter 240, Section 114, as amended) is amended to read:

23 "1-12-7.2. VOTER WHOSE NAME IS NOT ON LIST OR ROSTER.--

24 A. A voter whose name does not appear on the voter  
25 list and signature roster for the precinct in which the voter

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1 offers to vote shall be permitted to vote in the precinct  
2 pursuant to the federal National Voter Registration Act of 1993  
3 and Section 1-12-8 NMSA 1978.

4 B. The judges or election clerks in charge of the  
5 signature rosters shall add the voter's name and address in ink  
6 to the signature roster on the line immediately following the  
7 last entered voter's name, and the voter shall be allowed to  
8 sign an affidavit of eligibility and cast a provisional paper  
9 ballot; provided that the voter has first signed or marked both  
10 the signature roster and checklist of registered voters.

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

14 D. In a primary election, a voter shall not be  
15 permitted to vote for a candidate of a party different from the  
16 party designation shown on the voter's certificate of  
17 registration unless the voter's certificate of registration  
18 shows that the voter has declined to designate a party  
19 affiliation or that the voter designated affiliation with a  
20 party other than a major political party on the voter's  
21 certificate of registration, and the voter chooses to affiliate  
22 with a major political party for that primary election by  
23 requesting the ballot of a party participating in the primary.

24 Upon making that determination, the county clerk shall transmit  
25 the ballot to the county canvassing board to be tallied and

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1 included in the canvass of that county for the appropriate  
2 precinct."

3 SECTION 7. Section 1-12-20 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 273, as amended) is amended to read:

5 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A  
6 challenge may be interposed by a member of the precinct board  
7 or by a party challenger for the following reasons:

8 A. the person offering to vote is not registered to  
9 vote;

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

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

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

16 E. in the case of a primary election, the person  
17 desiring to vote is [~~not~~] currently affiliated with a major  
18 political party represented on the ballot but the person  
19 requests a ballot for a party with which the person is not  
20 affiliated."

21 SECTION 8. Section 1-15A-2 NMSA 1978 (being Laws 1977,  
22 Chapter 230, Section 2, as amended) is amended to read:

23 "1-15A-2. VOTING IN PRESIDENTIAL PRIMARY--DATE OF  
24 ELECTION.--

25 A. In the year in which the president and vice

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1 president of the United States are to be elected, the  
2 registered voters of this state shall be given an opportunity  
3 to express their preference for the person to be the  
4 presidential candidate of their political party in either a  
5 presidential primary election or in accordance with the  
6 selection procedure for presidential candidates of each voter's  
7 party. The presidential primary election shall be held on the  
8 same date as the primary election is held in this state.

9 B. A voter may vote in a presidential primary  
10 election on the ballot of only one of the parties participating  
11 in the primary election in accordance with the provisions of  
12 Section 1-12-7 NMSA 1978."

13 SECTION 9. EFFECTIVE DATE.--The effective date of the  
14 provisions of this act is July 1, 2025.