



## To Make Sure All Votes Count, New Mexico Needs Open Primary Elections

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Protecting the right to vote requires that not only citizens have access to the ballot, but also that the choice on the ballot is meaningful. Before their names appear on the general election ballot, candidates for political offices are selected through primary elections organized by the Republican and Democratic parties. Primaries take place well before the general election, ensuring the eventual candidates chosen to appear as the Republican and Democratic entrants in the general election have enough time to rally political support before Election Day.

Primaries happen all across the United States, but not according to the same rules. There are two major types of primaries – closed and open. As of January, 2016, nineteen U.S. states conduct *open primaries*, which permit any registered voter to take part in any party's primary election, regardless of his or her affiliation. However, New Mexico and many other states have *closed primary systems*, which require a voter to be registered as a member of a political party in order to participate in the primary election. Unaffiliated or independent voters cannot participate in the primaries in such states – so many people are simply left out of the first major stage of the election process. In New Mexico, as we are about to see, this means that many voters lose the chance to cast a meaningful ballot.

### Why New Mexico's Closed Primaries Exclude Many Citizens

Scholars of representation have demonstrated that open primaries provide greater access to democratic institutions. In states where general elections are not very competitive, where one party's candidate almost always wins, closed primaries exclude many voters from making the only choice that matters. This is very much the situation in New Mexico, because in many districts the real choice to be made is among Republicans or among Democrats competing in the primaries.

In 2012, for example, New Mexico's 70 seats in the state House districts included only 15 with competitive or mildly competitive elections. The candidate who won the party primary was virtually certain to win in November. Similarly, in 2014, 38 of 70 general election contests had only one major party candidate running for office. How many New Mexicans tend to be left without meaningful choices in this kind of system? Throughout the state, about 22% of registered voters are not affiliated with a major party. This means that more than a fifth of voters cannot participate in primary elections.

Moreover, the distribution of independent voters across counties and municipalities means that there are a number of places where the general election is not competitive yet a large percentage of voters were not able

to participate in the meaningful primary election. For example, 15% of voters in Senate District 14 in New Mexico are not members of either major party. In the 2012 Senate election, Senator Padilla, a Democrat, did not face any Republican challenger. For the 5,354 independent voters, and the 4,406 registered Republicans who reside in his district, voting in the general election was essentially meaningless. The only way they could have registered their view effectively was in an open primary, where non-Democrats could have had a say in choosing the candidate who would win the general election.

Unfortunately, this kind of situation is common in New Mexico.

- In the nine New Mexico Senate districts with large numbers of independents and “other party” voters, only two general election contests were close (with victory margins of less than ten percent), while three contests had no challenger to the incumbent. Not only independent voters, but also opposition party members had little clout in such districts.
- In New Mexico House Districts, 32 of 70 have above-average proportions of independent and non-affiliated voters (and 23 districts have more than a quarter of voters in such categories). In 2014, over half of New Mexico House districts had only one major party candidate running for election; and about 22% of voters, more than 267,000, had no meaningful voting options.
- Uncontested elections occur at every level of state public office and are frequent occurrences for executive posts such as commissioners and sheriffs, for city council as well as state legislative posts, and for judicial positions such as probate and magistrate judgeships.

Taking into account the unaffiliated 22% of New Mexico voters facing uncontested general elections plus another 11% dealing with general election races where one party's candidates win by large margins, we calculate that nearly 400,000 New Mexico voters are excluded from the only important election in their district – the incumbent or dominant party's primary election.

## Time for a Change

Given these realities, it is not surprising that opposition is building to New Mexico's closed primary system. In June of 2014, an Albuquerque resident, David Crum, filed a lawsuit asserting that closed primaries violated the state constitution, but a March 2015 ruling permitted the continuation of closed primaries. In early 2016, New Mexico House Democrats introduced House Joint Resolution 12, which seeks to amend the state Constitution to allow registered voters to cast ballots in primary elections without respect to party affiliations.

The facts show that closed primaries significantly diminish democratic participation in New Mexico. The closed primary system excludes many New Mexicans from taking part in the only meaningful elections staged in their districts, and the exclusion matters most in areas where many independents reside. Opening primaries takes on even greater importance given that many parts of the state have uncompetitive general elections. Closed primaries are unfair to many, because they concentrate electoral power among registered voters in the major party dominant in each area. The time has come for New Mexico to institute open primaries, to ensure not just the formal right to vote but opportunities for all citizens to cast meaningful ballots.