

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 224

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO ELECTIONS; ALLOWING QUALIFIED ELECTORS TO REGISTER
AND VOTE UP TO THREE DAYS BEFORE AN ELECTION AT EARLY VOTING
SITES.

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]~~ EARLY VOTING--REGISTRATION PROCEDURES.--

A. If a qualified elector is not registered to vote
or needs to update the qualified elector's existing certificate
of registration and is at an early voting site for a primary or
general election in the county in which the qualified elector
resides, the qualified elector shall be allowed to complete a
certificate of registration and cast a ballot from the precinct
in which the qualified elector resides; provided that the

.207415.2

underscored material = new
[bracketed material] = delete

1 qualified elector:

2 (1) presents a physical form of identification
3 as defined in Subsection A of Section 1-1-24 NMSA 1978 to the
4 county clerk or the clerk's authorized representative;

5 (2) completes a certificate of registration
6 form and the registration information is entered into the
7 statewide electronic voter file; and

8 (3) subscribes an application to vote.

9 B. If the early voting site does not have real-time
10 access to the statewide electronic voter file and the qualified
11 elector fulfills the conditions specified in Paragraphs (1)
12 through (3) of Subsection A of this section, the voter shall be
13 issued a provisional ballot.

14 C. A voter shall not be allowed to change party
15 affiliation when registering at an early voting site during a
16 primary election.

17 D. For registration purposes, "early voting site"
18 means an alternate voting site or the office of the county
19 clerk during the time when in-person absentee voting is being
20 conducted."

21 SECTION 2. Section 1-4-5.1 NMSA 1978 (being Laws 1993,
22 Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7,
23 as amended) is amended to read:

24 "1-4-5.1. METHOD OF REGISTRATION--FORM.--

25 A. A qualified elector may apply for registration:

.207415.2

- 1 (1) by mail;
- 2 (2) in the office of the secretary of state or
- 3 county clerk; or
- 4 (3) with a registration agent or officer.

5 B. A person may request certificate of registration
6 forms from:

7 (1) the secretary of state or any county clerk
8 in person, by telephone or by mail for that person or for other
9 persons; or

10 (2) a county clerk or the clerk's authorized
11 representative at an early voting site.

12 C. Except as provided in Subsection D of this
13 section, a qualified elector who wishes to register to vote
14 shall fill out completely and sign the certificate of
15 registration. The qualified elector may seek the assistance of
16 any person in completing the certificate of registration.

17 D. A qualified elector who has filed for an order
18 of protection pursuant to the provisions of the Family Violence
19 Protection Act and who presents a copy of that order from a
20 state or tribal court to the registration officer shall not be
21 required to provide physical residence address information on
22 the certificate of registration.

23 E. Completed certificates of registration may be:

24 (1) mailed or presented in person by the
25 registrant or any other person to the secretary of state; ~~[or]~~

.207415.2

underscored material = new
 [bracketed material] = delete

1 (2) mailed or presented in person by the
2 registrant or any other person to the county clerk of the
3 county in which the registrant resides; or

4 (3) completed at an early voting site and
5 presented to the county clerk or the clerk's authorized
6 representative at the early voting site in the county in which
7 the registrant resides.

8 F. If the registrant wishes to vote in [~~the next~~]
9 an election, the completed and signed certificate of
10 registration shall be delivered or mailed and postmarked at
11 least twenty-eight days before the election or completed at an
12 early voting site and presented to the county clerk or the
13 clerk's authorized representative at an early voting site in
14 the county in which the registrant resides.

15 G. Within one business day after receipt of a
16 certificate of registration, the secretary of state shall send
17 the certificate to the county clerk in the county where the
18 qualified elector resides. Within one business day after
19 receipt of a certificate of registration of another county, a
20 county clerk shall send the certificate of registration to the
21 county clerk in the county where the qualified elector resides.

22 H. Only when the certificate of registration is
23 properly filled out, signed by the qualified elector and
24 accepted for filing by the county clerk as evidenced by the
25 county clerk's signature or stamp and the date of acceptance

1 thereon shall it constitute an official public record of the
2 registration of the qualified elector. A qualified elector
3 complies with a voter registration deadline established in the
4 Election Code when a properly filled-out voter registration
5 certificate has been received by a county clerk or the
6 secretary of state, regardless of the date the certificate is
7 processed.

8 I. The secretary of state shall prescribe the form
9 of the certificate of registration, which form shall be a
10 postpaid mail-in format and shall be printed in Spanish and
11 English. The certificate of registration form shall be clear
12 and understandable to the average person and shall include
13 brief but sufficient instructions to enable the qualified
14 elector to complete the form without assistance. The form
15 shall also include:

16 (1) the question "Are you a citizen of the
17 United States of America?" and boxes for the applicant to check
18 to indicate whether the applicant is or is not a citizen;

19 (2) the question "Will you be at least
20 eighteen years of age on or before the next general election?"
21 and boxes for the applicant to check to indicate whether the
22 applicant will be eighteen years of age or older on or before
23 the next general election;

24 (3) the statement "If you checked 'no' in
25 response to either of these questions, do not complete this

.207415.2

1 form.";

2 (4) a statement informing the applicant that:

3 (a) if the form is submitted by mail by
4 the applicant and the applicant is registering for the first
5 time in New Mexico, the applicant must submit with the form a
6 copy of: 1) a current and valid photo identification; or 2) a
7 current utility bill, bank statement, government check,
8 paycheck, student identification card or other government
9 document, including identification issued by an Indian nation,
10 tribe or pueblo, that shows the name and current address of the
11 applicant; and

12 (b) if the applicant does not submit the
13 required identification, the applicant will be required to do
14 so when voting in person or absentee; and

15 (5) a statement requiring the applicant to
16 swear or affirm that the information supplied by the applicant
17 is true."

18 SECTION 3. Section 1-4-8 NMSA 1978 (being Laws 1969,
19 Chapter 240, Section 66, as amended) is amended to read:

20 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF
21 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For
22 qualified electors, the following provisions shall apply:

23 A. the county clerk shall receive certificates of
24 registration at all times during normal working hours, except
25 that the clerk shall close registration at 5:00 p.m. on the

.207415.2

1 twenty-eighth day immediately preceding any election at which
2 the registration books are to be furnished to the precinct
3 board;

4 B. during the period when early voting sites are
5 open, the county clerk shall accept for filing a certificate of
6 registration from any qualified elector who registers to vote
7 at an early voting site in the county in which the qualified
8 elector resides;

9 [~~B.~~] C. registration shall be reopened on the
10 Monday following the election;

11 [~~C.~~] D. for purposes of a municipal or school
12 election, the registration period for those precincts within
13 the municipality or school district is closed at 5:00 p.m. on
14 the twenty-eighth day immediately preceding the municipal or
15 school election and is opened again on the Monday following the
16 election;

17 [~~D.~~] E. during the period when registration is
18 closed, the county clerk shall receive certificates of
19 registration and other documents pertaining thereto but, except
20 for certificates of registration received from an early voting
21 site, shall not file any certificate of registration in the
22 registration book until the Monday following the election, at
23 which time a voter information document shall be mailed to the
24 registrant at the address shown on the certificate of
25 registration;

.207415.2

1 ~~[E-]~~ F. when the twenty-eighth day prior to any
2 election referred to in this section is a Saturday, Sunday or
3 legal holiday, registration shall be closed at 5:00 p.m. of the
4 next succeeding regular business day for the office of the
5 county clerk; and

6 ~~[F-]~~ G. the county clerk shall accept for filing
7 any certificate of registration that is subscribed and dated on
8 or before the twenty-eighth day preceding the election and:

9 (1) received by the county clerk before
10 5:00 p.m. on the Friday immediately following the close of
11 registration;

12 (2) mailed and postmarked not less than
13 twenty-eight days prior to any election referred to in this
14 section; or

15 (3) accepted at a state agency designated
16 pursuant to Section 1-4-5.2 NMSA 1978."

17 **SECTION 4.** Section 1-12-8 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 247, as amended) is amended to read:

19 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

20 A. A person shall be permitted to vote on a
21 provisional paper ballot even though the person's original
22 certificate of registration cannot be found in the county
23 register or even if the person's name does not appear on the
24 signature roster; provided that:

25 (1) the person's residence is within the

1 boundaries of the county in which the person offers to vote;

2 (2) the person's name is not on the list of
3 persons submitting absentee ballots; and

4 (3) the person executes a statement swearing
5 or affirming to the best of the person's knowledge that the
6 person is a qualified elector, is currently registered and
7 eligible to vote in that county and has not cast a ballot or
8 voted in that election.

9 B. A person shall vote on a provisional ballot if
10 the person:

11 (1) is not registered, or is not registered in
12 the correct precinct;

13 (2) attempts to register to vote at an early
14 voting site but the early voting site does not have real-time
15 access to the statewide electronic voting file; and

16 (3) would otherwise be eligible to vote at the
17 early voting site.

18 [~~B.~~] C. A voter shall vote on a provisional paper
19 ballot if the voter:

20 (1) has not previously voted in a general
21 election in New Mexico or has been purged from the voter list;

22 (2) registered to vote by mail;

23 (3) did not submit the physical form of the
24 required voter identification with the certificate of
25 registration form; and

.207415.2

1 (4) does not present to the election judge a
2 physical form of the required voter identification.

3 [~~E.~~] D. A voter shall vote on a provisional paper
4 ballot in accordance with the provisions of Section 1-12-7.1
5 NMSA 1978 if the voter does not provide the required voter
6 identification to the election judge.

7 [~~D.~~] E. A judge or election clerk shall have the
8 voter sign the signature roster or application to vote and
9 issue the voter a provisional paper ballot, an outer envelope
10 and an official inner envelope. The voter shall vote on the
11 provisional paper ballot in secrecy and, when done, place the
12 ballot in the official inner envelope and place the official
13 inner envelope in the outer envelope and return it to the judge
14 or election clerk. The judge or election clerk shall ensure
15 that the required information is completed on the outer
16 envelope, have the voter sign it in the appropriate place and
17 place it in an envelope designated for provisional paper
18 ballots.

19 [~~E.~~] F. Knowingly executing a false statement
20 constitutes perjury as provided in the Criminal Code, and
21 voting on the basis of such falsely executed statement
22 constitutes fraudulent voting."

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

25 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A

.207415.2

1 challenge may be interposed by a member of the precinct board
 2 or by a party challenger for the following reasons:

3 A. the person offering to vote is not registered to
 4 vote and is not a qualified elector;

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

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

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

11 E. in the case of a primary election, the person
 12 desiring to vote is not affiliated with a political party
 13 represented on the ballot."

14 SECTION 6. Section 1-12-25.4 NMSA 1978 (being Laws 2003,
 15 Chapter 356, Section 7, as amended) is amended to read:

16 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

17 A. Upon closing of the polls, provisional paper
 18 ballots shall be delivered to the county clerk, who shall
 19 determine if the ballots will be counted prior to certification
 20 of the election.

21 B. A provisional paper ballot shall not be counted
 22 if the registered voter did not sign either the signature
 23 roster or, in the case of a person who registered to vote at an
 24 early voting site, the application to vote, or the ballot's
 25 envelope.

.207415.2

underscored material = new
 [bracketed material] = delete

1 C. If there is no record of the [~~voter~~] person ever
2 having been registered in the county, the [~~voter~~] person shall
3 be offered the opportunity to register and the provisional
4 paper ballot shall not be counted; provided that this
5 subsection does not apply to a provisional ballot of a
6 qualified elector who registered to vote at an early voting
7 site.

8 D. If the voter was registered in the county, the
9 registration was later canceled and the county clerk determines
10 that the cancellation was in error, or that the voter's name
11 should not have been placed on the list of voters whose
12 registrations were to be canceled, the voter's registration
13 shall be immediately restored and the provisional paper ballot
14 counted.

15 E. If the county clerk determines that the
16 cancellation was not in error, the voter shall be offered the
17 opportunity to register at the voter's correct address, and the
18 provisional paper ballot shall not be counted.

19 F. If the voter is a registered voter in the
20 county, but has voted on a provisional paper ballot at a
21 polling place other than the voter's designated polling place,
22 the county canvassing board shall ensure that only those votes
23 for the positions or measures for which the voter was eligible
24 to vote are counted.

25 G. If the county clerk finds that the voter who

1 voted on a provisional paper ballot [~~at the polls~~] has also
 2 voted [~~an absentee~~] another ballot in that election, the
 3 provisional paper ballot shall not be counted.

4 H. The county canvassing board shall prepare a
 5 tally displaying the number of provisional paper ballots
 6 received, the number found valid and counted, the number
 7 rejected and not counted and the reason for not counting the
 8 ballots as part of the canvassing process and forward it to the
 9 secretary of state immediately upon certification of the
 10 election.

11 I. The secretary of state shall issue rules to
 12 ensure securing the secrecy of the provisional paper ballots,
 13 especially during canvassing, reviewing or recounting, and
 14 protecting against fraud in the voting process."

15 SECTION 7. EFFECTIVE DATE.--The effective date of the
 16 provisions of this act is July 1, 2017.

underscored material = new
 [bracketed material] = delete

