

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 52

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

INTRODUCED BY

Jeff Steinborn and Patricia Roybal Caballero

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

underscoring 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:

.211349.2

underscored material = new
[bracketed material] = delete

- 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 and may register to vote
23 without publicly disclosing the applicant's street address
24 pursuant to the Confidential Substitute Address Act.

25 E. Completed certificates of registration may be:

.211349.2

underscored material = new
[bracketed material] = delete

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

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

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

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

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

24 H. Only when the certificate of registration is
25 properly filled out, signed by the qualified elector and

.211349.2

underscoring material = new
~~[bracketed material] = delete~~

1 accepted for filing by the county clerk as evidenced by the
2 county clerk's signature or stamp and the date of acceptance
3 thereon shall it constitute an official public record of the
4 registration of the qualified elector. A qualified elector
5 complies with a voter registration deadline established in the
6 Election Code when a properly filled-out voter registration
7 certificate has been received by a county clerk or the
8 secretary of state, regardless of the date the certificate is
9 processed.

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

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

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

.211349.2

underscored material = new
[bracketed material] = delete

1 (3) the statement "If you checked 'no' in
2 response to either of these questions, do not complete this
3 form.";

4 (4) a statement informing the applicant that:

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

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

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

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

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

25 A. the county clerk shall receive certificates of

.211349.2

underscored material = new
[bracketed material] = delete

1 registration at all times during normal working hours, except
2 that the clerk shall close registration at the end of the
3 twenty-eighth day immediately preceding any election at which
4 the registration books are to be furnished to the precinct
5 board;

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

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

13 [~~G.~~] D. for purposes of a [~~municipal or school~~]
14 local election held pursuant to the Local Election Act, the
15 registration period for those precincts within the
16 [~~municipality or school~~] local government district is closed at
17 the end of the twenty-eighth day immediately preceding the
18 [~~municipal or school~~] local election and is opened again on the
19 Monday following the election;

20 [~~D.~~] E. during the period when registration is
21 closed, the county clerk shall receive certificates of
22 registration and other documents pertaining thereto but, except
23 for certificates of registration received from an early voting
24 site, shall not file any certificate of registration in the
25 registration book until the Monday following the election, at

.211349.2

underscored material = new
[bracketed material] = delete

1 which time a voter information document shall be mailed to the
2 registrant at the address shown on the certificate of
3 registration;

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

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

12 (1) received by the county clerk by the end of
13 the regular business day for the office of the county clerk on
14 the Friday immediately following the close of registration;

15 (2) mailed and postmarked not less than
16 twenty-eight days prior to any election referred to in this
17 section; or

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

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

22 "1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

23 A. A person shall be permitted to vote on a
24 provisional paper ballot even though the person's original
25 certificate of registration cannot be found in the county

.211349.2

underscored material = new
[bracketed material] = delete

1 register or even if the person's name does not appear on the
2 signature roster; provided that:

3 (1) the person's residence is within the
4 boundaries of the county in which the person offers to vote;

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

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

12 B. A person shall vote on a provisional ballot if
13 the person:

14 (1) is not registered or is not registered in
15 the correct precinct;

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

19 (3) would otherwise be eligible to vote at the
20 early voting site.

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

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

25 (2) registered to vote by mail;

.211349.2

underscored material = new
[bracketed material] = delete

1 (3) did not submit the physical form of the
2 required voter identification with the certificate of
3 registration form; and

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

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

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

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

.211349.2

underscored material = new
[bracketed material] = delete

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

3 "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A
4 challenge may be interposed by a member of the precinct board
5 or by a party challenger for the following reasons:

6 A. the person offering to vote is not registered to
7 vote and is not a qualified elector;

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

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

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

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

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

19 "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

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

24 B. A provisional paper ballot shall not be counted
25 if the registered voter did not sign either the signature

.211349.2

underscored material = new
[bracketed material] = delete

1 roster or, in the case of a person who registered to vote at an
2 early voting site, the application to vote, or the ballot's
3 envelope.

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

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

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

22 F. If the voter is a registered voter in the county
23 but has voted on a provisional paper ballot at a polling place
24 other than the voter's designated polling place, the county
25 canvassing board shall ensure that only those votes for the

.211349.2

underscored material = new
[bracketed material] = delete

1 positions or measures for which the voter was eligible to vote
2 are counted.

3 G. If the county clerk finds that the voter who
4 voted on a provisional paper ballot [~~at the polls~~] has also
5 voted [~~an absentee~~] another ballot in that election, the
6 provisional paper ballot shall not be counted.

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

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

18 SECTION 7. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2019.