

HOUSE BILL NO. 357

INTRODUCED BY D. SKEES

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A BILL FOR AN ACT ENTITLED: "AN ACT STRENGTHENING LAWS RELATED TO VOTER IDENTIFICATION; REQUIRING AN INDIVIDUAL TO SHOW A PHOTO IDENTIFICATION BEFORE VOTING AT A POLL OR APPLYING TO VOTE BY ABSENTEE BALLOT; PROVIDING EXEMPTIONS; REQUIRING THE SECRETARY OF STATE TO CREATE OR REVISE CERTAIN VOTER REGISTRATION FORMS; ELIMINATING THE FEE FOR AN IDENTIFICATION CARD FOR CERTAIN INDIVIDUALS; AND AMENDING SECTIONS 13-1-210, 13-13-114, 13-13-201, 13-13-212, 13-13-602, 13-15-107, AND 61-12-504, MCA."

WHEREAS, the Montana Constitution requires the Legislature to ensure the purity of elections and guard against abuses of the electoral process; and

WHEREAS, it is the intent of the Montana Legislature to fulfill that duty; and

WHEREAS, it is the intent of the Montana Legislature to provide Montanans with confidence in the electoral process and, as a result, encourage the full participation of all eligible electors in Montana elections; and

WHEREAS, the legislative intent is accomplished by instituting safeguards designed to deter and detect voter fraud, ensure that only those individuals eligible to vote cast a vote, and count only the votes cast by individuals who are eligible to vote.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-210, MCA, is amended to read:

"13-1-210. Standard application form for voter registration and absentee ballot requests. (1) The secretary of state shall establish by rule a standard application form, to be used by each election administrator, that allows an individual to apply for voter registration and to request to be added to the absentee ballot list in order to receive ballots for subsequent elections.

(2) Pursuant to 13-13-212(3), the absentee ballot application portion of the standard form must include substantially the following language and option:

Optional: I request an absentee ballot to be mailed to me for as long as I reside at the address listed for each subsequent election in which I am eligible to vote.



1 I understand that in order to receive an absentee ballot I must provide a copy of one of the identification
 2 documents listed in 13-13-212(5) unless I am exempt from that requirement as provided in 13-13-212(7).

3 I understand that in order to continue to receive an absentee ballot, I must complete, sign, and return a
 4 confirmation form that will be mailed to me in January of every even-numbered year.

5 (3) The standard application form must include:

6 (a) a statement that the individual will be required to provide photo identification when voting or applying
 7 to receive an absentee ballot;

8 (b) a list of identification documents listed in 13-13-114(1)(a) and 13-13-212(5); and

9 (c) a list of any exemptions for an individual who is 65 years of age or older or an individual listed in
 10 13-13-114(5) or 13-13-212(7)."

11

12 **Section 2.** Section 13-13-114, MCA, is amended to read:

13 **"13-13-114. Voter identification and marking precinct register book before elector votes --**

14 **provisional voting.** (1) (a) ~~Before~~ Except as provided in subsections (4) and (5), before an elector is permitted
 15 to receive a ballot or vote, the elector shall present to an election judge a current and valid photo identification
 16 showing the elector's name. ~~If the elector does not present photo identification, including but not limited to a valid~~
 17 ~~driver's license, a school district or postsecondary education photo identification, or a tribal photo identification,~~
 18 ~~the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration~~
 19 ~~issued pursuant to 13-2-207, government check, or other government document that shows the elector's name~~
 20 ~~and current address~~ and that must be one of the following documents:

21 (i) a driver's license issued by Montana or another state or district of the United States;

22 (ii) a Montana identification card issued pursuant to Title 61, chapter 12, part 5;

23 (iii) a permit to carry a concealed weapon issued by Montana or another state or district of the United
 24 States;

25 (iv) a United States passport;

26 (v) an employee badge or identification document issued by a local, state, or federal government agency
 27 or office;

28 (vi) a military identification document issued by the United States; or

29 (vii) a tribal photo identification.

30 (b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and

1 must be provided with a regular ballot to vote.

2 (c) If the information provided in subsection (1)(a) differs from information in the precinct register but an
3 election judge determines that the information provided is sufficient to verify the voter's identity and eligibility to
4 vote pursuant to 13-2-512, the elector may sign the precinct register, complete a transfer form or new registration
5 form to correct the elector's voter registration information, and vote.

6 (d) An election judge shall write "transfer form" or "registration form" beside the name of any elector
7 submitting a form.

8 (2) If the information presented under subsection (1) is insufficient to verify the elector's identity and
9 eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as
10 provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector
11 may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

12 (3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint,
13 an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not
14 provided, the elector may cast a provisional ballot as provided in 13-13-601.

15 (4) An expired photo identification must be accepted as valid if the bearer of the document is 65 years
16 of age or older.

17 (5) The following individuals are exempt from the photo identification requirements of this section:

18 (a) an individual with a permanent physical disability that makes it impossible for the individual to travel
19 to a local government or state office to obtain a qualifying form of identification;

20 (b) a covered voter as defined in 13-21-102; and

21 (c) an individual whose religious beliefs prohibit photo identification. An individual seeking an exemption
22 under this subsection (5)(c) shall complete and transmit a declaration concerning the religious beliefs to the
23 election administrator or the secretary of state. The secretary of state shall prescribe the form and make it
24 available on the secretary of state's website."

25

26 **Section 3.** Section 13-13-201, MCA, is amended to read:

27 **"13-13-201. Voting by absentee ballot -- procedures.** (1) A legally registered elector or provisionally
28 registered elector is entitled to vote by absentee ballot as provided for in this part.

29 (2) The elector may vote absentee by:

30 (a) marking the ballot in the manner specified;

- 1 (b) placing the marked ballot in the secrecy envelope, free of any identifying marks;
- 2 (c) placing the secrecy envelope containing one ballot for each election being held in the signature
3 envelope;
- 4 (d) executing the affirmation printed on the signature envelope; and
- 5 (e) returning the signature envelope with all appropriate enclosures by regular mail, postage paid, or by
6 delivering it to:
- 7 (i) the election office;
- 8 (ii) a polling place within the elector's county;
- 9 (iii) pursuant to 13-13-229, the absentee election board or an authorized election official; or
- 10 (iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within the
11 elector's county.
- 12 (3) Except as provided in 13-21-206 and 13-21-226, in order for the ballot to be counted, each elector
13 shall return it in a manner that ensures the ballot is received prior to 8 p.m. on election day.
- 14 (4) A provisionally registered elector may also enclose in the outer signature envelope a copy of the
15 elector's photo identification showing the elector's name. The photo identification ~~may be but is not limited to a~~
16 ~~valid driver's license, a school district or postsecondary education photo identification, or a tribal photo~~
17 ~~identification. If the provisionally registered elector does not enclose a photo identification, the elector may~~
18 ~~enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued~~
19 ~~pursuant to 13-2-207, government check, or other government document that shows the elector's name and~~
20 ~~current address~~ must be one of the identification documents listed in 13-13-212(5)."

21

22 **Section 4.** Section 13-13-212, MCA, is amended to read:

23 **"13-13-212. Application for absentee ballot -- special provisions -- biennial absentee ballot list**
24 **-- photo identification.** (1) (a) Except as provided in ~~subsection~~ subsections (1)(b), (6), and (7), an elector may
25 apply for an absentee ballot by using a standard application form provided by rule by the secretary of state
26 pursuant to 13-1-210 or by making a written request, which must include the applicant's birth date and a copy of
27 the applicant's current and valid photo identification, which must be one of the documents listed in subsection (5),
28 and must be signed by the applicant. The request must be submitted to the election administrator of the
29 applicant's county of residence within the time period specified in 13-13-211.

30 (b) A person who holds a power of attorney from a uniformed-service voter may apply for an absentee

1 ballot for that election on behalf of the uniformed-service voter. The applicant shall provide a copy of the power
2 of attorney authorizing the request for an absentee ballot along with the application.

3 (2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the
4 application for an absentee ballot may be made by written request signed by the elector at the time that the ballot
5 is delivered in person by the absentee election board or by an authorized election official as provided in
6 13-13-225.

7 (b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and
8 application personally delivered by the absentee election board or by an authorized election official at the elector's
9 place of confinement, hospitalization, or residence within the county.

10 (c) A request under subsection (2)(a) must be received by the election administrator within the time
11 period specified in 13-13-211(2).

12 (3) (a) An elector may at any time request to be mailed an absentee ballot for each subsequent election
13 in which the elector is eligible to vote as long as the elector remains qualified to vote and resides at the address
14 provided in the initial application. The request may be made when the individual applies for voter registration
15 using the standard application form provided for in 13-1-210.

16 (b) (i) The election administrator shall biennially mail a forwardable address confirmation form to each
17 elector who has requested an absentee ballot for subsequent elections. The address confirmation form must
18 request the elector's driver's license number or the last four digits of the elector's social security number. The
19 address confirmation form must include an e-mail address for the election administrator that can be used by the
20 elector to confirm that the elector wishes to continue to receive an absentee ballot and to provide the requested
21 information. The address confirmation form must be mailed in January of every even-numbered year. The
22 address confirmation form is for elections to be held between February 1 following the mailing through January
23 of the next even-numbered year.

24 (ii) An election administrator may provide a website on which the elector can provide the required
25 information to confirm that the elector wishes to remain on the biennial absentee ballot list.

26 (iii) Except as provided in subsections (3)(b)(iv) and (3)(b)(v), the elector shall sign the form, indicate the
27 address to which the absentee ballot should be sent, provide the elector's driver's license number or the last four
28 digits of the elector's social security number, and return the form to the election administrator.

29 (iv) The elector may provide the required information to the election administrator using:

30 (A) the e-mail address provided on the form; or

- 1 (B) a website established by the election administrator.
- 2 (v) The elector does not need to provide a signature when using either option provided in subsection
3 (3)(b)(iv) to confirm that the elector wishes to remain on the biennial absentee ballot list.
- 4 (c) If the form is not completed and returned or if the elector does not respond using the options provided
5 in subsection (3)(b)(iv), the election administrator shall remove the elector from the biennial absentee ballot list.
- 6 (d) An elector may request to be removed from the biennial absentee ballot list for subsequent elections
7 by notifying the election administrator in writing.
- 8 (e) An elector who has been or who requests to be removed from the biennial absentee ballot list may
9 subsequently request to be mailed an absentee ballot for each subsequent election.
- 10 (4) In a mail ballot election, ballots must be sent under mail ballot procedures rather than under the
11 absentee ballot procedures set forth in subsection (3).
- 12 (5) A current and valid photo identification is limited to the following documents:
- 13 (a) a driver's license issued by Montana or another state or district of the United States;
- 14 (b) a Montana identification card issued pursuant to Title 61, chapter 12, part 5;
- 15 (c) a permit to carry a concealed weapon issued by Montana or another state or district of the United
16 States;
- 17 (d) a United States passport;
- 18 (e) an employee badge or identification document issued by a local, state, or federal government agency
19 or office;
- 20 (f) a military identification document issued by the United States; or
- 21 (g) a tribal photo identification.
- 22 (6) An expired photo identification listed in subsection (5) must be accepted as valid if the bearer of the
23 document is 65 years of age or older.
- 24 (7) The following individuals are exempt from the photo identification requirements of this section:
- 25 (a) an individual with a permanent physical disability that makes it impossible for the individual to travel
26 to a local government or state office to obtain a qualifying form of identification;
- 27 (b) a covered voter as defined in 13-21-102; and
- 28 (c) an individual whose religious beliefs prohibit photo identification. An individual seeking an exemption
29 under this subsection (7)(c) shall complete and transmit a declaration concerning the religious beliefs to the
30 election administrator or the secretary of state. The secretary of state shall prescribe the form and make it

1 available on the secretary of state's website."

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3 **Section 5.** Section 13-13-602, MCA, is amended to read:

4 **"13-13-602. Fail-safe and provisional voting by mail.** (1) To ensure the election administrator has
5 information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the
6 outer signature envelope, together with the voted ballot in the secrecy envelope, a copy of ~~a current and valid~~
7 ~~photo identification with the elector's name or a copy of a current utility bill, bank statement, paycheck, notice of~~
8 ~~confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document~~
9 ~~that shows the elector's name and current address or other information necessary to determine the elector's~~
10 ~~eligibility to vote~~ one of the identification documents listed in 13-13-212(5).

11 (2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

12 (a) a provisionally registered elector voting by mail does not enclose with the ballot the information
13 ~~described~~ referred to in subsection (1);

14 (b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility;

15 or

16 (c) the elector's name does not appear on the precinct register."

17

18 **Section 6.** Section 13-15-107, MCA, is amended to read:

19 **"13-15-107. Handling and counting provisional and challenged ballots.** (1) To verify eligibility to
20 vote, a provisionally registered individual who casts a provisional ballot has until 5 p.m. on the day after the
21 election to provide valid identification or eligibility information either in person, by facsimile, by electronic means,
22 or by mail postmarked no later than the day after the election.

23 (2) (a) If a legally registered individual casts a provisional ballot because the individual failed to provide
24 sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the
25 signature of the ~~individual or the individual's agent~~ designated pursuant to 13-1-116 on the affirmation required
26 under 13-13-601 to the signature on ~~the individual's voter registration card or the agent's designation form~~ or
27 require the individual to provide sufficient identification.

28 (b) If the signatures match or the individual or the individual's agent provides sufficient identification, the
29 election administrator shall handle the ballot as provided in subsection (5).

30 (c) If the signatures do not match and the individual or the individual's agent fails to provide ~~valid~~

1 sufficient identification information by the deadline, the ballot must be rejected and handled as provided in
2 13-15-108.

3 (3) A provisional ballot must be counted if the election administrator verifies the individual's identity or
4 eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the
5 individual's identity or eligibility under the rules, the individual's provisional ballot must be rejected and handled
6 as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the
7 grounds that the individual is of unsound mind or serving a felony sentence in a penal institution, the individual's
8 provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the
9 election that a court has established that the individual is of unsound mind or that the individual has been
10 convicted and sentenced and is still serving a felony sentence in a penal institution.

11 (4) The election administrator shall provide an individual who cast a provisional ballot but whose ballot
12 was or was not counted with the reasons why the ballot was or was not counted.

13 (5) A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a
14 manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other
15 provisional ballot if the individual's voter information is:

16 (a) verified before 5 p.m. on the day after the election; or

17 (b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth
18 day after the election.

19 (6) Provisional ballots that are not resolved by the end of election day may not be counted until after 3
20 p.m. on the sixth day after the election."

21

22 **Section 7.** Section 61-12-504, MCA, is amended to read:

23 **"61-12-504. Fees for identification cards -- exceptions -- expiration of cards.** (1) Upon application
24 for an identification card issued pursuant to this part, a fee of \$16 must be collected and deposited in the general
25 fund, except that the fee for a card issued under subsection (3)(b) is \$8.

26 (2) (a) A person with a disability, as defined in 39-30-103, may obtain a free identification card.

27 (b) An individual discharged from any correctional facility must be furnished a free identification card
28 upon release, discharge, or parole.

29 (c) (i) An individual who does not have a Montana driver's license and who will be at least 18 years of
30 age at the next primary, school, general, municipal, or special election must be furnished a free identification card

1 unless the individual's presence in the United States is temporarily authorized under federal law.

2 (ii) In order to receive a free identification card under this subsection, an individual shall:

3 (A) swear under oath that the individual desires the identification card in order to vote in a Montana
4 election and that the individual does not possess any of the forms of identification acceptable under
5 13-13-114(1)(a) and 13-13-212(5); and

6 (B) produce evidence that the individual is registered to vote in Montana.

7 (3) (a) Except as provided in subsections (3)(b) and (3)(c), an identification card expires on the
8 anniversary of the cardholder's date of birth 8 years after the date of issue.

9 (b) An identification card issued to a person who is under 21 years of age expires on the anniversary
10 of the cardholder's date of birth 4 years after the card's issue date.

11 (c) An identification card issued to a person whose presence in the United States is temporarily
12 authorized under federal laws expires, as determined by the department, no later than the expiration date of the
13 official document issued to the person by the United States citizenship and immigration services of the
14 department of homeland security that authorizes the person's presence in the United States."

15 - END -