

SENATE BILL NO. 169

INTRODUCED BY M. CUFFE, E. BUTTREY, D. SKEES, D. SALOMON, J. READ, S. FITZPATRICK, R. OSMUNDSON, D. KARY, T. MCGILLVRAY, D. HOWARD, K. REGIER, C. SMITH, G. VANCE, J. WELBORN, B. HOVEN, M. BLASDEL, D. ANKNEY, L. JONES, B. KEENAN, B. MOLNAR, C. GLIMM, G. HERTZ, M. LANG, D. LENZ, W. GALT, S. BERGLEE, B. BROWN, F. GARNER, J. HINKLE, K. HOLMLUND, T. MANZELLA, W. MCKAMEY, M. NOLAND, B. TSCHIDA, S. HINEBAUCH, S. GUNDERSON, M. REGIER, D. LOGE, R. FITZGERALD, F. ANDERSON, L. SHELDON-GALLOWAY, J. TREBAS, D. BARTEL, C. KNUDSEN, B. USHER, S. VINTON, W. SALES, T. WELCH, J. SMALL, T. GAUTHIER, M. HOPKINS, R. TEMPEL, F. FLEMING, J. ELLSWORTH, N. DURAM, J. FULLER, R. KNUDSEN, J. DOOLING, K. BOGNER, J. KASSMIER, B. MERCER, T. MOORE, D. BEDEY, S. GREEF, B. LER, B. PHALEN, F. NAVE, J. CARLSON, L. BREWSTER, K. ZOLNIKOV, B. MITCHELL, A. REGIER, L. REKSTEN, P. FIELDER, S. KERNS, S. GALLOWAY, S. GIST, E. HILL, J. SCHILLINGER, K. SEEKINS-CROWE, M. STROMSWOLD, M. MALONE, J. GILLETTE, C. HINKLE, K. WALSH, M. BERTOGLIO, G. FRAZER, M. BINKLEY, R. MARSHALL, K. WHITMAN

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING VOTER IDENTIFICATION LAWS; REVISING CERTAIN IDENTIFICATION REQUIREMENTS FOR VOTER REGISTRATION, VOTING, AND PROVISIONAL VOTING; AND AMENDING SECTIONS 13-2-110, 13-13-114, ~~AND 13-13-602~~, AND 13-15-107, MCA."

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

Section 1. Section 13-2-110, MCA, is amended to read:

"13-2-110. Application for voter registration -- sufficiency and verification of information -- identifiers assigned for voting purposes. (1) An individual may apply for voter registration in person or by mail, postage paid, by completing and signing the standard application form for voter registration provided for in 13-1-210 and providing the application to the election administrator in the county in which the elector resides.

(2) Each application for voter registration must be accepted and processed as provided in rules

1 adopted under 13-2-109.

2 (3) Except as provided in subsection (4):

3 ~~(a)~~ an applicant for voter registration shall provide the applicant's:

4 (a) ~~valid~~ Montana driver's license number; ~~or state identification card; or~~

5 ~~(b) valid military Montana state identification card number issued pursuant to 61-12-501; or~~

6 ~~(c) valid tribal photo identification card; or~~

7 ~~(b)(d)~~ if the applicant does not have a Montana driver's license, the applicant shall provide the last
8 four digits of the applicant's social security number ~~the last four digits of the applicant's social security number.~~

9 (4) (a) If an applicant ~~does not have a Montana driver's license or social security number~~
10 ~~identification or is unable to provide~~ information in accordance with subsection (3), the applicant shall provide
11 as an alternative form of identification:

12 (i) ~~a military identification card, a tribal photo identification card, a United States passport, a photo~~
13 ~~identification card issued by a Montana college or university, or a Montana concealed carry permit; or~~

14 ~~(ii)(A) a current and valid any other form of photo identification, including but not limited to a school~~
15 ~~district or postsecondary education photo identification or a tribal photo identification, with the individual's name;~~
16 ~~or and~~

17 ~~(ii)(B) a current utility bill, bank statement, paycheck, government check, or other government~~
18 ~~document that shows the individual's name and current address.~~

19 (b) The alternative form of identification must be:

20 (i) an original version presented to the election administrator if the applicant is applying in person; or

21 (ii) a readable copy of any of the required documents, which must be enclosed with the application, if
22 the applicant is applying by mail.

23 (5) (a) If information provided on an application for voter registration is sufficient to be accepted and
24 processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the
25 elector as a legally registered elector.

26 (b) If information provided on an application for voter registration was sufficient to be accepted but the
27 applicant failed to provide the information required in subsection (3) or (4) or if the information provided was
28 incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall

1 register the applicant as a provisionally registered elector.

2 (6) Each applicant for voter registration must be notified of the elector's registration status pursuant to
3 rules adopted under 13-2-109.

4 (7) The secretary of state shall assign to each elector whose application was accepted a unique
5 identification number for voting purposes and shall establish a statewide uniform method to allow the secretary
6 of state and local election officials to distinguish legally registered electors from provisionally registered
7 electors.

8 (8) The provisions of this section may not be interpreted to conflict with voter registration
9 accomplished under 13-2-221, 13-21-221, and 61-5-107 and as provided for in federal law."

10

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

12 **"13-13-114. Voter identification and marking precinct register book before elector votes --**

13 **provisional voting.** (1) (a) ~~Before~~ Except as provided in ~~subsections (1)(b) and (1)(c)~~ subsection (2), before an
14 elector is permitted to receive a ballot or vote, the elector shall present to an election judge ~~a ONE OF THE~~
15 ~~FOLLOWING FORMS OF~~ current photo identification showing the elector's name. ~~If the elector does not present~~
16 ~~photo identification, including but not limited to:~~

17 (i) a valid Montana driver's license, or valid Montana state identification card issued pursuant to 61-
18 12-501, valid military identification card, or valid tribal photo identification card, United States passport, photo
19 identification card issued by a Montana college or university, or Montana concealed carry permit;

20 ~~(b)(ii) If an elector does not have identification in accordance with subsection (1)(a), the elector shall~~
21 ~~provide~~ a valid voter registration card issued in accordance with 13-2-207; or

22 ~~(c) If an elector does not have identification or information in accordance with subsection (1)(a) or~~
23 ~~(1)(b), the elector shall provide as an alternative form of identification:~~

24 (iii) (A) (i) a school district or postsecondary education photo identification, or a tribal photo
25 identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of
26 voter registration issued pursuant to 13-2-207, government check, or other government document that shows
27 the elector's name and current address; and

28 (ii)(B) current photo identification that shows the elector's name, including but not limited to a school

1 district or postsecondary education photo identification.

2 ~~(b)(d)(b)~~ An elector who provides the information listed in ~~this~~ subsection ~~(1)(a)~~ ~~(1)(1)(a)~~ may sign the
3 precinct register and must be provided with a regular ballot to vote.

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

8 ~~(d)(f)(d)~~ An election judge shall write "registration form" beside the name of any elector submitting a
9 form.

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

15 (3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a
16 fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-
17 116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601."

18

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

20 **"13-13-602. Fail-safe and provisional voting by mail.** (1) To ensure the election administrator has
21 information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the
22 outer signature envelope, together with the voted ballot in the secrecy envelope, ~~a copy of a current and valid~~
23 ~~photo identification with the elector's name. The photo identification may be but is not limited to FROM THE~~
24 ~~FOLLOWING LIST: a valid Montana driver's license, or VALID state identification card, valid military identification~~
25 ~~card, or valid tribal photo identification card. If the elector does not enclose a copy of A valid photo identification~~
26 ~~FROM THIS LIST, the elector may enclose; or:~~

27 (a) a Montana driver's license number, Montana state identification card number issued pursuant to
28 61-12-501, or the last four digits of the applicant's social security number;

1 (b) a readable copy of a military identification card, a tribal photo identification card, a United States
2 passport, a photo identification card issued by a Montana college or university, or a Montana concealed carry
3 permit; or

4 (c) (i) any other form of photo identification with the individual's name; and
5 (ii) a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration
6 issued pursuant to 13-2-207, government check, or other government document that shows the elector's name
7 and current address~~or other information necessary to determine the elector's eligibility to vote; and~~

8 ~~(b) current photo identification that shows the elector's name, including but not limited to a school~~
9 ~~district or postsecondary education photo identification.~~

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

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

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

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

17 **Section 4.** Section 13-15-107, MCA, is amended to read:

18 **"13-15-107. Handling and counting provisional and challenged ballots.** (1) To verify eligibility to
19 vote, a provisionally registered individual who casts a provisional ballot has until 5 p.m. on the day after the
20 election to provide valid identification or eligibility information either in person, by facsimile, by electronic
21 means, or by mail postmarked no later than the day after the election.

22 (2) ~~(a)~~ If a legally registered individual casts a provisional ballot because the individual failed to
23 provide sufficient identification as required pursuant to 13-13-114(1)(a);

24 (a) the elector has until 5 p.m. on the day after the election to provide identification information
25 pursuant to the requirements of 13-13-114 or as provided in subsection (3) of this section; and

26 (b) the election administrator shall compare the signature of the individual or the individual's agent
27 designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the
28 individual's voter registration form or the agent's designation form.

1 ~~(b)~~—If the signatures match, the election administrator shall handle the ballot as provided in subsection
2 (5).

3 ~~(c)~~—If the signatures do not match and the individual or the individual's agent fails to provide valid
4 identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

5 (3) If a legally registered individual casts a provisional ballot but is unable provide the identification
6 information pursuant to the requirements of 13-13-114, the elector may verify the elector's identity by:

7 (a) presenting a current utility bill, bank statement, paycheck, government check, or other government
8 document that shows the elector's name and current address; and

9 (b) executing a declaration pursuant to subsection (4) that states that the elector has a reasonable
10 impediment to meeting the identification requirements.

11 (4) The secretary of state shall prescribe the form of the declaration described in subsection (3). The
12 form must include:

13 (a) a notice that the elector is subject to prosecution for false swearing under 45-7-202 for a false
14 statement or false information on the declaration;

15 (b) a statement that the elector swears or affirms that the information contained in the declaration is
16 true, that the person described in the declaration is the same person who is signing the declaration, and that
17 the elector faces a reasonable impediment to procuring the identification required by 13-13-114;

18 (c) a place for an elector to indicate one of the following impediments:

19 (i) lack of transportation;

20 (ii) lack of birth certificate or other documents needed to obtain identification;

21 (iii) work schedule;

22 (iv) lost or stolen identification;

23 (v) disability or illness;

24 (vi) family responsibilities; or

25 (vii) photo identification has been applied for but not received;

26 (d) a place for the elector to sign and date the declaration;

27 (e) a place for the election administrator or an election judge to sign and date the declaration;

28 (f) a place to note the polling place at which the elector cast a provisional ballot; and

(g) a place for the election administrator or election judge to note which form of identification required by subsection (3)(a) the elector presented.

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

~~(4)(6)~~ The election administrator shall provide an individual who cast a provisional ballot but whose ballot was or was not counted with the reasons why the ballot was or was not counted.

~~(5)(7)~~ A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the individual's voter information is:

- (a) verified before 5 p.m. on the day after the election; or
- (b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

~~(6)(8)~~ Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth day after the election."

NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- END -