

1 SENATE BILL NO. 299

2 INTRODUCED BY K. REGIER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PRIMARY ELECTION LAWS;
5 REQUIRING AN ELECTOR TO DECLARE A POLITICAL PARTY AFFILIATION OR THAT THE ELECTOR IS
6 INDEPENDENT OF A PARTY WHEN REGISTERING TO VOTE OR UPDATING A REGISTRATION;
7 SPECIFYING HOW AND WHEN A REGISTERED ELECTOR MAY CHANGE PARTY AFFILIATION;
8 PROHIBITING AN INDEPENDENT ELECTOR FROM RECEIVING A PARTY BALLOT IN A PRIMARY
9 ELECTION; REQUIRING THE SECRETARY OF STATE TO REVISE AND CREATE CERTAIN FORMS;
10 REQUIRING ELECTION ADMINISTRATORS TO UPDATE VOTER REGISTRATION LISTS; AMENDING
11 SECTIONS 13-2-110, 13-2-115, 13-2-116, 13-2-122, 13-2-207, 13-2-220, 13-10-209, 13-10-301, 13-10-305,
12 13-13-214, 13-17-103, AND 13-19-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
13 APPLICABILITY DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **NEW SECTION. Section 1. Change of party affiliation information after registration.** (1) An
18 elector registered before [the effective date of this act] must be considered to be registered as an independent
19 unless a change of party affiliation form is filed by the elector as provided in subsection (2).

20 (2) A registered elector may change party affiliation or independent status by completing and
21 returning to the election administrator a change of party affiliation form prescribed by the secretary of state
22 pursuant to 13-1-202.

23
24 **Section 2.** Section 13-2-110, MCA, is amended to read:

25 **"13-2-110. Application for voter registration -- sufficiency and verification of information --**
26 **identifiers assigned for voting purposes.** (1) An individual may apply for voter registration in person or by
27 mail, postage paid, by completing and signing the standard application form for voter registration provided for in
28 13-1-210 and providing the application to the election administrator in the county in which the elector resides.

1 (2) Each application for voter registration must be accepted and processed as provided in rules
2 adopted under 13-2-109.

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

4 (a) an applicant for voter registration shall provide the applicant's Montana driver's license number; or

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

7 (4) (a) If an applicant does not have a Montana driver's license or social security number, the
8 applicant shall provide as an alternative form of identification:

9 (i) a current and valid photo identification, including but not limited to a school district or
10 postsecondary education photo identification or a tribal photo identification, with the individual's name; or

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

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

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

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

17 ~~(5)~~ An applicant shall declare on the registration form the applicant's party affiliation or that the
18 applicant is independent of any political party. If the applicant does not declare a party affiliation or that the
19 applicant is independent, the election administrator shall designate the elector as an independent.

20 ~~(5)(6)~~ (a) If information provided on an application for voter registration is sufficient to be accepted
21 and processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall
22 register the elector as a legally registered elector.

23 (b) If information provided on an application for voter registration was sufficient to be accepted but the
24 applicant failed to provide the information required in subsection (3) or (4) or if the information provided was
25 incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall
26 register the applicant as a provisionally registered elector.

27 ~~(6)(7)~~ Each applicant for voter registration must be notified of the elector's registration status pursuant
28 to rules adopted under 13-2-109.

1 ~~(7)~~(8) The secretary of state shall assign to each elector whose application was accepted a unique
 2 identification number for voting purposes and shall establish a statewide uniform method to allow the secretary
 3 of state and local election officials to distinguish legally registered electors from provisionally registered
 4 electors.

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

7

8 **Section 3.** Section 13-2-115, MCA, is amended to read:

9 **"13-2-115. Certification of statewide voter registration list -- local lists to be prepared.** (1) No
 10 later than 5 working days after the deadline prescribed in 13-2-301(3), election administrators shall enter all
 11 voter registration applications that were submitted within the deadline for regular registration into the statewide
 12 voter registration system.

13 (2) The secretary of state shall certify the official statewide voter registration list by utilizing the
 14 information in the statewide voter registration system.

15 (3) Each election administrator shall have printed from the certified statewide voter registration
 16 system lists of all registered electors in each precinct in the county. Except as provided in subsections (6) and
 17 (7), ~~names the name of electors each elector~~ must be listed alphabetically, with ~~their~~ the elector's party
 18 affiliation or independent status and the elector's residence address or with a mailing address if located where
 19 street numbers are not used.

20 (4) A copy of the list of registered electors in a precinct must be displayed at the precinct's polling
 21 place. Extra copies of the lists must be retained by the election administrator and furnished to an elector upon
 22 request.

23 (5) Lists of registered electors need not be printed if the election will not be held.

24 (6) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for
 25 security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be
 26 disclosed, the secretary of state or an election administrator may not include the address on any generally
 27 available list of registered electors but may list only the electors' names.

28 (7) (a) Upon the request of an individual, the secretary of state or an election administrator may not

1 include the individual's residential address on any generally available list of registered electors but may list only
2 the elector's name if the individual:

3 (i) proves to the election administrator, as provided in subsection (7)(b), that the individual, or a minor
4 in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial
5 interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

6 (ii) proves to the election administrator, as provided in subsection (7)(c), that a temporary restraining
7 order or injunction has been issued by a judge or magistrate to restrain another person's access to the
8 individual or minor.

9 (b) Proof of the victimization is conclusive upon exhibition to the election administrator of a criminal
10 judgment, information and judgment, or affidavit of a county attorney clearly indicating the conviction and the
11 identity of the victim.

12 (c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to
13 the election administrator of the temporary restraining order or injunction."
14

15 **Section 4.** Section 13-2-116, MCA, is amended to read:

16 "**13-2-116. Precinct register.** (1) Except for mail ballot elections conducted under Title 13, chapter
17 19, the election administrator shall prepare from the certified statewide voter registration list a precinct register
18 for each precinct in the county for use by the election judges. The register may be prepared no sooner than the
19 Friday before each election and must contain an alphabetical list of the names, with addresses party affiliation
20 or independent status, and the, addresses of the legally registered ~~electors and~~ or provisionally registered
21 electors, ~~a space~~ spaces for the ~~signature~~ signatures of the ~~elector~~ electors, and other information as
22 prescribed by the secretary of state.

23 (2) If some of the electors in a precinct are not eligible to receive all ballots at an election because of
24 a combination of the elections of more than one political subdivision, the election administrator shall distinguish
25 the names of those eligible for each ballot by whatever method will be clear and efficient.

26 (3) When several precincts have been combined at one polling place for an election, the election
27 administrator may combine the electors from all precincts into one register or may provide separate registers for
28 each precinct.

1 (4) Precinct registers need not be printed if the election will not be held."
2

3 **Section 5.** Section 13-2-122, MCA, is amended to read:

4 **"13-2-122. Charges for registers, elector lists, and mailing labels made available to public.** (1)

5 Except as provided in subsection (2), upon request, the secretary of state shall furnish to any individual, for
6 noncommercial use, available extracts and reports from the statewide voter registration system. Upon request,
7 a local election administrator shall furnish to an individual, for noncommercial use, a copy of the official precinct
8 registers, a current list of legally registered electors, mailing labels for registered electors, or other available
9 extracts and reports. Upon delivery, the secretary of state or the local election administrator may collect a
10 charge not to exceed the actual cost of the register, list, mailing labels, or available extracts and reports.

11 (2) For an elector whose address information is protected from general distribution under 13-2-115(6)
12 or (7), the secretary of state or a local election administrator may not include the elector's residential address on
13 any register, list, mailing labels, or available extracts and reports but may list only the elector's name and party
14 affiliation or independent status."
15

16 **Section 6.** Section 13-2-207, MCA, is amended to read:

17 **"13-2-207. Confirmation of registration.** (1) The election administrator shall give or mail to each
18 elector a notice, confirming registration and party affiliation or independent status, and giving the location of the
19 elector's polling place. A notice sent to an elector to whom the notice is not personally given must be sent by
20 nonforwardable, first-class mail, which must conform to postal regulations to ensure address corrections are
21 received.

22 (2) If the notice confirming registration is returned as undeliverable, the election administrator shall
23 investigate the reason for the return of any mailed notices and mail a confirmation notice to the elector. The
24 notice must conform to postal regulations to ensure return, not forwarding, of undelivered notices."
25

26 **Section 7.** Section 13-2-220, MCA, is amended to read:

27 **"13-2-220. Maintenance of active and inactive voter registration lists for elections -- rules by**
28 **secretary of state.** (1) The rules adopted by the secretary of state under 13-2-108 must include the following

1 procedures, at least one of which an election administrator shall follow in every odd-numbered year:

2 (a) compare the entire list of registered electors against the national change of address files and
3 provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

4 (b) mail a nonforwardable, first-class, "return if undeliverable--address correction requested" notice to
5 all registered electors of each jurisdiction to confirm their addresses and party affiliation or independent status,
6 and provide the appropriate confirmation notice to those individuals who return the notices;

7 (c) mail a targeted mailing to electors who failed to vote in the preceding federal general election,
8 applicants who failed to provide required information on registration forms, and provisionally registered electors
9 by:

10 (i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable
11 confirmation notice to those electors who appear to have moved from their addresses of record;

12 (ii) comparing the list of nonvoters against the national change of address files, followed by the
13 appropriate confirmation notices to those electors who appear to have moved from their addresses of record;

14 (iii) sending forwardable confirmation notices; or

15 (iv) making a door-to-door canvass.

16 (2) An individual who submits an application for an absentee ballot for a federal general election or
17 who completes and returns the address confirmation notice specified in 13-13-212(4) during the calendar year
18 in which a federal general election is held is not subject to the procedure in subsection (1)(c) unless the
19 individual's ballot for a federal general election is returned as undeliverable and the election administrator is not
20 able to contact the elector through the most expedient means available to resolve the issue.

21 (3) Any notices returned as undeliverable to the election administrator or any notices to which the
22 elector fails to respond after the election administrator uses the procedures provided in subsection (1) must be
23 followed within 30 days by an appropriate confirmation notice that is a forwardable, first-class, postage-paid,
24 self-addressed, return notice. If the elector fails to respond within 30 days of the final confirmation notice, after
25 the 30th day, the election administrator shall move the elector to the inactive list.

26 (4) A procedure used by an election administrator pursuant to this section must be completed at least
27 90 days before a primary or general election for federal office.

28 (5) An elector's registration may be reactivated pursuant to 13-2-222 or may be canceled pursuant to

1 13-2-402."

2

3 **Section 8.** Section 13-10-209, MCA, is amended to read:

4 **"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election
5 must be arranged and prepared in the same manner and number as provided in chapter 12 for general election
6 ballots, except that there must be separate ballots for each political party entitled to participate. The name of
7 the political party must appear at the top of the separate ballot for that party and need not appear with each
8 candidate's name.

9 (b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the
10 same ballot as partisan offices if:

11 (i) each section is clearly identified as separate; and

12 (ii) the nonpartisan offices and ballot issues appear on each party's ballot.

13 (2) Except as provided in subsection (3), an election administrator does not need to prepare a primary
14 ballot for a political party if:

15 (a) the party does not have candidates for more than half of the offices to appear on the ballot; and

16 (b) no more than one candidate files for nomination by that party for any of the offices to appear on
17 the ballot.

18 (3) Subsection (2) does not apply to elections for precinct committee offices. If more than one
19 candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that
20 party shall select the candidate to fill the office.

21 (4) If, pursuant to subsection (2), in a primary election held in an even-numbered year a primary ballot
22 for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for
23 that party and shall instruct the election administrator to certify the names of the candidates for that party for the
24 general election ballot only.

25 (5) The separate ballots for each party must have the same appearance. Each set of party ballots
26 must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different
27 appearance than the party ballots but must be numbered in the same order as the party ballots.

28 (6) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot

1 or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but
2 must be numbered in the same order.

3 (7) ~~Each~~ Subject to 13-10-301(2), each elector must receive a set of ballots that includes the party,
4 nonpartisan, and ballot issue choices."
5

6 **Section 9.** Section 13-10-301, MCA, is amended to read:

7 **"13-10-301. Casting of ballot.** (1) Unless otherwise provided by law, the conduct of the primary
8 election, the voting procedure, the counting, tallying, and return of ballots and all election records and supplies,
9 the canvass of votes, the certification and notification of nominees, recounts, procedures upon tie votes, and
10 any other necessary election procedures must be at the same times and in the same manner as provided for in
11 the laws for the general election.

12 (2) At a primary election, ~~the~~ an elector who has declared a party affiliation shall cast votes on ~~only~~
13 ~~one of the~~ ballot for the party ballots, that the elector declared affiliation with on the elector's most current voter
14 registration form by preparing the ballot as provided in 13-13-117.

15 (3) After casting votes on any other ballots received other than the party ballots, the elector shall
16 ensure the proper disposition of the ballots in accordance with instructions provided pursuant to 13-13-112.

17 ~~(3)(4)~~ (4) The elector's ballot must be handled as prescribed in 13-13-117."
18

19 **Section 10.** Section 13-10-305, MCA, is amended to read:

20 **"13-10-305. Independent forfeits place on ballot if party nomination accepted.** An individual who
21 has filed as an independent candidate forfeits the individual's place on the general election ballot as an
22 independent candidate if the individual accepts a write-in nomination on a party ballot for an office as provided
23 in 13-10-204."
24

25 **Section 11.** Section 13-13-214, MCA, is amended to read:

26 **"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a)
27 Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail,
28 postage prepaid, to each legally registered elector and provisionally registered elector from whom the election

1 administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official
2 ballots are necessary in a manner that conforms to postal regulations to require the return rather than
3 forwarding of ballots.

4 (b) The election administrator shall mail the ballots in a manner that conforms to the deadlines
5 established for ballot availability in 13-13-205.

6 (c) The election administrator may deliver a ballot in person to an individual other than the elector if:

7 (i) the elector has designated the individual, either by a signed letter or by making the designation on
8 the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;

9 (ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of
10 the ballot;

11 (iii) the election administrator believes that the individual receiving the ballot is the designated person;

12 and

13 (iv) the designated person has not previously picked up ballots for four other electors.

14 (2) The election administrator shall enclose with the ballots:

15 (a) a secrecy envelope, free of any marks that would identify the voter; and

16 (b) a signature envelope for the return of the ballot. The signature envelope must be self-addressed
17 by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed
18 on the back of the signature envelope.

19 (3) The election administrator shall ensure that the ballots provided to an absentee elector are
20 marked as provided in 13-13-116 and shall remove the stubs from the ballots, keeping the stubs in numerical
21 order with the application for absentee ballots, if applicable, or in a precinct envelope or container for that
22 purpose.

23 (4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose
24 a party ballot only for the party that the elector declared affiliation with on the elector's most current voter
25 registration form. If the elector is an independent, the elector may not receive a party ballot.

26 ~~(4)~~(5) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must
27 include disposal instructions for unvoted ballots. The instructions must include information concerning the type
28 or types of writing instruments that may be used to mark the absentee ballot. The instructions must include

1 information regarding use of the secrecy envelope and use of the signature envelope. The election
2 administrator shall include a voter information pamphlet with the instructions if:

- 3 (a) a statewide ballot issue appears on the ballot mailed to the elector; and
- 4 (b) the elector requests a voter information pamphlet."

5

6 **Section 12.** Section 13-17-103, MCA, is amended to read:

7 **"13-17-103. Required specifications for voting systems.** (1) A voting system may not be approved
8 under 13-17-101 unless the voting system:

- 9 (a) allows an elector to vote in secrecy;
- 10 (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- 11 (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to
12 vote;
- 13 (d) allows an elector to vote in a primary election only for the candidates of the party ~~selected by the~~
14 ~~elector in the primary election~~ that the elector is affiliated with according to the elector's most current voter
15 registration form;
- 16 (e) allows an elector to vote a split ticket in a general election if the elector desires;
- 17 (f) allows each valid vote cast to be registered and recorded within the performance standards
18 adopted pursuant to subsection (3);
- 19 (g) is protected from tampering for a fraudulent purpose;
- 20 (h) prevents an individual from seeing or knowing the number of votes registered for any candidate or
21 on any ballot issue during the progress of voting;
- 22 (i) allows write-in voting;
- 23 (j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training
24 and technical assistance will be provided to election officials under the contract for purchase of the voting
25 system;
- 26 (k) uses a paper ballot that allows votes to be manually counted; and
- 27 (l) allows auditors to access and monitor any software program while it is running on the system to
28 determine whether the software is running properly.

- 1 (2) A voter interface device may not be approved for use in this state unless:
- 2 (a) the device meets the electronic security standards adopted by the secretary of state;
- 3 (b) the device provides accessible voting technology for electors with hearing, vision, speech, or
- 4 ambulatory impairments;
- 5 (c) the device meets all requirements specified in subsection (1);
- 6 (d) the device has been made available for demonstration and use by electors with disabilities in at
- 7 least one public event held by the secretary of state; and
- 8 (e) disabled electors have been able to participate in the process of determining whether the system
- 9 meets accessibility standards.
- 10 (3) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a
- 11 benchmark performance standard that must be met in tests by each voting system prior to approval under 13-
- 12 17-101. The standard must be based on commonly accepted industry standards for readily available
- 13 technologies."

- 14
- 15 **Section 13.** Section 13-19-205, MCA, is amended to read:
- 16 **"13-19-205. Written plan for conduct of election -- amendments -- approval procedures.** (1) The
- 17 election administrator shall prepare a written plan for the conduct of each election to be conducted by mail and
- 18 shall submit the plan to the secretary of state in a manner that ensures that it is received at least 60 days prior
- 19 to the date set for the election. There must be a separate plan for each type of election held even if held on the
- 20 same day.
- 21 (2) The written plan must include:
- 22 (a) a timetable for the election; and
- 23 (b) sample written instructions that will be sent to the electors. The instructions must include but are
- 24 not limited to:
- 25 (i) information on the estimated amount of postage required to return the ballot;
- 26 (ii) (A) the location of the places of deposit and the days and times when ballots may be returned to
- 27 the places of deposit, if the information is available; or
- 28 (B) if the information on location and hours of places of deposit is not available, a section that will

1 allow the information to be added before the instructions are mailed to electors; and

2 (iii) any applicable instructions specified under 13-13-214(4)(5).

3 (3) The plan may be amended by the election administrator at any time prior to the 35th day before
4 election day by notifying the secretary of state in writing of any changes.

5 (4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the
6 secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

7 (5) When the written plan and any amendments have been approved, the election administrator shall
8 proceed to conduct the election according to the approved plan unless the election is canceled for any reason
9 provided by law."

10

11 **NEW SECTION. Section 14. Codification instruction.** [Section 1] is intended to be codified as an
12 integral part of Title 13, chapter 2, part 2, and the provisions of Title 13, chapter 2, part 2, apply to [section 1].

13

14 **NEW SECTION. Section 15. Transition.** (1) No later than September 1, 2023, the secretary of state
15 shall:

16 (a) revise the standard voter registration application form established in 13-1-210 to allow an
17 individual to select a party affiliation or to be an independent; and

18 (b) create a change of party affiliation form as specified in [section 1(1)].

19 (2) After the secretary of state has completed the actions specified in subsection (1), each election
20 administrator shall use the voter registration list maintenance procedure described in 13-2-220(1)(b) to update
21 the voter registration list. The mailing must include a change of party affiliation form to allow voters to provide
22 party affiliation or independent status information to the election administrator. This procedure must be
23 completed at least 90 days before the primary election held in 2024.

24

25 **NEW SECTION. Section 16. Effective date.** [This act] is effective on passage and approval.

26

27 **NEW SECTION. Section 17. Applicability.** [This act] applies to primary and general elections held
28 on or after January 1, 2024.

1

- END -