

Senate BILL NO. 361

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INTRODUCED BY BENEDICT

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE NATIONAL VOTER REGISTRATION ACT; REQUIRING THE SECRETARY OF STATE TO ASSIST ELECTION ADMINISTRATORS WITH THE IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT; REQUIRING THE SECRETARY OF STATE TO ADOPT RULES PROVIDING PROCEDURES FOR AGENCY-BASED REGISTRATION; REQUIRING THE SECRETARY OF STATE TO MAKE APPLICATIONS FOR VOTER REGISTRATION FORMS AVAILABLE; PROVIDING ADDITIONAL LOCATIONS FOR AVAILABILITY OF VOTER REGISTRATION FORMS; REQUIRING RETURN OR FORWARDING OF NOTICES OF REGISTRATION; PROVIDING FOR CANCELLATION OF VOTER REGISTRATION; PROVIDING FOR LISTS OF ACTIVE AND INACTIVE ELECTORS; PROVIDING FOR REACTIVATION OF ELECTOR'S NAMES FROM INACTIVE TO ACTIVE LISTS; AMENDING SECTIONS 1-2-112, 13-1-101, 13-1-203, 13-1-204, 13-2-203, 13-2-207, 13-2-402, 13-2-403, 13-2-512, AND 13-19-313, MCA; REPEALING SECTION 13-2-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the bill gives the secretary of state authority to adopt administrative rules. [Section 12] requires the secretary of state to adopt rules providing alternative methods to be used by election administrators to ensure the maintenance of accurate voter registration rolls for elections. In adopting the alternatives, the secretary of state shall consider the recommendations of the federal election commission.

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

Section 1. Section 1-2-112, MCA, is amended to read:

"1-2-112. Statutes imposing new local government duties. (1) ~~Any~~ Except as provided in this section, a law enacted by the legislature that requires a local government unit to perform an activity or provide a service or facility that requires the direct expenditure of additional funds must provide a specific means to finance the activity, service, or facility other than mill levies or the all-purpose mill levy. Any law

1 that fails to provide a specific means to finance any activity, service, or facility is not effective until specific
2 means of financing are provided by the legislature from state or federal funds.

3 (2) The legislature may fulfill the requirements of this section by providing for an increase in the
4 existing authorized mill levies, the all-purpose mill levy, special mill levies, or the remission of money by the
5 state to local governments. However, an increase in the existing authorized mill levies, the all-purpose mill
6 levy, or any special mill levy must provide an amount necessary to finance the additional costs, and if
7 financing is provided by remission of funds by the state, the remission must bear a reasonable relationship
8 to the actual cost of performing the activity or providing the service or facility.

9 (3) Subsequent legislation may not be considered to supersede or modify any provision of this
10 section, whether by implication or otherwise, except to the extent that the legislation does so expressly.

11 (4) This section does not apply to:

12 (a) any law under which the required expenditure of additional local funds is an insubstantial amount
13 that can be readily absorbed into the budget of an existing program. A required expenditure of the
14 equivalent of approximately 0.1 mill or less levied on taxable property of the local government unit may be
15 considered an insubstantial amount.

16 (b) a law necessary to implement the National Voter Registration Act of 1993, Public Law 103-31."

17

18 **Section 2.** Section 13-1-101, MCA, is amended to read:

19 "13-1-101. **Definitions.** As used in this title, unless the context clearly indicates otherwise, the
20 following definitions apply:

21 (1) "Active elector" means a qualified elector whose name is on the active list.

22 (2) "Active list" means a list of active electors maintained by an election administrator pursuant
23 to [section 11].

24 (3) "Application for voter registration" means a completed voter registration card submitted to the
25 election administrator and subject to confirmation, as provided in 13-2-207.

26 ~~(4)~~(4) "Anything of value" means any goods that have a certain utility to the recipient that is real
27 and that is ordinarily not given away free but is purchased.

28 ~~(2)~~(5) "Candidate" means:

29 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination
30 or appointment as a candidate for public office as required by law;

1 (b) for the purposes of chapters 35, 36, or 37, an individual who has solicited or received and
2 retained contributions, made expenditures, or given consent to an individual, organization, political party,
3 or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf
4 to secure nomination or election to any office at any time, whether or not the office for which the individual
5 will seek nomination or election is known when the:

6 (i) solicitation is made;

7 (ii) contribution is received and retained; or

8 (iii) expenditure is made; and

9 (c) an officeholder who is the subject of a recall election.

10 ~~(3)~~(6) (a) "Contribution" means:

11 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of
12 value to influence an election;

13 (ii) a transfer of funds between political committees;

14 (iii) the payment by a person other than a candidate or political committee of compensation for the
15 personal services of another person that are rendered to a candidate or political committee.

16 (b) "Contribution" does not mean:

17 (i) services provided without compensation by individuals volunteering a portion or all of their time
18 on behalf of a candidate or political committee or meals and lodging provided by individuals in their private
19 residence for a candidate or other individual;

20 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities
21 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

22 (iii) the cost of any communication by any membership organization or corporation to its members
23 or stockholders or employees, as long as the organization is not a primary political committee; or

24 (iv) filing fees paid by the candidate.

25 ~~(4)~~(7) "Election" means a general, regular, special, or primary election held pursuant to the
26 requirements of state law, regardless of the time or purpose.

27 ~~(5)~~(8) "Election administrator" means the county clerk and recorder or the individual designated by
28 a county governing body to be responsible for all election administration duties, except that with regard
29 to school elections, the term means the school district clerk.

30 ~~(6)~~(9) "Elector" means an individual qualified and registered to vote under state law.

1 ~~(7)~~(10) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge,
2 or gift of money or anything of value made for the purpose of influencing the results of an election.

3 (b) "Expenditure" does not mean:

4 (i) services, food, or lodging provided in a manner that they are not contributions under subsection
5 ~~(3)~~ (6);

6 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging,
7 or personal necessities for the candidate and the candidate's family;

8 (iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities
9 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

10 (iv) the cost of any communication by any membership organization or corporation to its members
11 or stockholders or employees, as long as the organization is not a primary political committee.

12 (11) "Federal election" means a general election in which an elector may vote for individuals for
13 the office of president of the United States or for the United States congress.

14 ~~(8)~~(12) "General election" or "regular election" means an election held for the election of public
15 officers throughout the state at times specified by law, including elections for officers of political
16 subdivisions when the time of the election is set on the same date for all similar political subdivisions in the
17 state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana
18 constitution to be submitted by the legislature to the electors at a general election, "general election" means
19 an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9,
20 of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular
21 election means an election held at the time provided in 13-1-104(1).

22 (13) "Inactive elector" means a qualified elector who is placed on an inactive list.

23 (14) "Inactive list" means a list of inactive electors maintained by an election administrator pursuant
24 to [section 11].

25 ~~(9)~~(15) "Individual" means a human being.

26 ~~(10)~~(16) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
27 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments,
28 recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of
29 chapters 35, 36, or 37, an issue becomes a "ballot issue" upon certification by the proper official that the
30 legal procedure necessary for its qualification and placement upon the ballot has been completed, except

1 that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the
2 petition or referral.

3 ~~(11)~~(17) "Person" means an individual, corporation, association, firm, partnership, cooperative,
4 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection
5 ~~(2)~~ (5) of this section.

6 ~~(12)~~(18) "Political committee" means a combination of two or more individuals or a person other
7 than an individual who makes a contribution or expenditure:

8 (a) to support or oppose a candidate or a committee organized to support or oppose a candidate
9 or a petition for nomination; or

10 (b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot
11 issue; or

12 (c) as an earmarked contribution.

13 ~~(13)~~(19) "Political subdivision" means a county, consolidated municipal-county government,
14 municipality, special district, or any other unit of government, except school districts, having authority to
15 hold an election for officers or on a ballot issue.

16 ~~(14)~~(20) "Primary" or "primary election" means an election held throughout the state to nominate
17 candidates for public office at times specified by law, including nominations of candidates for offices of
18 political subdivisions when the time for nominations is set on the same date for all similar subdivisions in
19 the state.

20 ~~(15)~~(21) "Public office" means a state, county, municipal, school, or other district office that is filled
21 by the people at an election.

22 ~~(16)~~(22) "Registrar" means the county election administrator and any regularly appointed deputy
23 or assistant election administrator.

24 ~~(17)~~(23) "Special election" means an election other than a statutorily scheduled primary or general
25 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
26 scheduled election.

27 ~~(18)~~(24) "Voting machine or device" means any equipment used to record, tabulate, or in any
28 manner process the vote of an elector."

29

30 **Section 3.** Section 13-1-203, MCA, is amended to read:

1 **"13-1-203. Chief election officer to advise, assist, and train.** The secretary of state shall advise
 2 and assist election administrators with regard to application, operation, and interpretation of Title 13,
 3 except for ~~chapters~~ chapter 35, 36, or 37, and the implementation and operation of the National Voter
 4 Registration Act of 1993, Public Law 103-31. The secretary of state shall hold at least one workshop every
 5 2 years to provide training and assistance to election administrators. Election administrators must be
 6 reimbursed, from funds appropriated to the secretary of state, for their mileage and expenses for attending
 7 the workshops at the rates set for mileage and expenses in 2-18-501 through 2-18-503. At the discretion
 8 of the secretary of state and within the budget limits allowed for workshops, the workshops may be held
 9 in several sessions at separate locations in the state."

10
 11 **Section 4.** Section 13-1-204, MCA, is amended to read:

12 **"13-1-204. Election records to be kept by secretary of state.** (1) The secretary of state shall
 13 maintain current and accurate records including:

14 (a) a list of all precincts in each county;

15 (b) a map showing the boundaries of all precincts in each county;

16 (c) a count of the number of registered voters in each precinct for the latest general election;

17 (d) a list of legislative districts, judicial districts, and any multicounty election districts, showing
 18 the precinct numbers of each county contained in each district and the number of registered voters in each
 19 district for the ~~latest~~ most recent general election;

20 (e) a count of votes cast at the ~~latest~~ most recent general election by precinct and by legislative,
 21 judicial, and multicounty districts; and

22 (f) records required to be submitted from local election administrators and other agencies and
 23 coordinated by the secretary of state pursuant to the National Voter Registration Act of 1993, Public Law
 24 103-31.

25 (2) Each election administrator shall provide the information and map for the record required in
 26 subsection (1) in the form and at the time prescribed by the secretary of state.

27 (3) The records required in subsection (1) and all records in the secretary of state's office pertaining
 28 to elections ~~shall~~ must be open for public inspection during normal office hours."

29
 30 **Section 5.** Section 13-2-203, MCA, is amended to read:

1 **"13-2-203. Registration by mail.** (1) A qualified individual may register by mailing, postage paid,
2 a properly completed application for voter registration form to the election administrator in the county in
3 which the individual resides.

4 (2) The election administrator shall send applications for voter registration forms for mail
5 registrations to all qualified individuals requesting them and shall, in addition, arrange for the forms to be
6 widely and conveniently available within the county. The secretary of state shall make applications for voter
7 registration forms available to governmental entities, private entities, and organized voter registration
8 efforts. The application for mail voter registration form must be designed as prescribed by the secretary of
9 state. A form prescribed by the secretary of state explaining voter registration qualifications, deadlines, and
10 purge information must be distributed with the application for mail voter registration form.

11 (3) The elector shall complete, sign, and return the application for mail voter registration form.

12 (4) The application for voter registration form must be received by the election administrator on
13 or before the day of the close of registration and must be returned to the administrator no later than 15
14 days after the date it is signed.

15 (5) ~~Registration~~ Application for voter registration forms properly executed before the close of
16 registration must be accepted for 3 days after the close of registration."
17

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

19 **"13-2-207. Notice Confirmation of registration.** (1) The election administrator shall give or mail
20 to each elector a notice, ~~affirming~~ confirming registration and giving the location of the elector's polling
21 place. ~~Mailed notices must conform to postal regulations to ensure return, not forwarding, of undelivered~~
22 ~~notices.~~ A notice sent to an elector to whom the notice is not personally given must be sent by
23 nonforwardable, first-class mail, which must conform to postal regulations to ensure address corrections
24 are received. If the notice is returned undeliverable the application for voter registration may not be placed
25 on the register of electors kept by the election administrator.

26 (2) The election administrator ~~must~~ shall investigate the reason for the return of any mailed notices
27 ~~and correct the address on the registration form~~ and mail a ~~new~~ confirmation notice ~~or cancel the~~
28 ~~registration of the elector if a diligent effort fails to locate the elector named on the registration form to the~~
29 ~~elector.~~ The notice must conform to postal regulations to ensure return, not forwarding, of undelivered
30 notices."

1 **Section 7.** Section 13-2-402, MCA, is amended to read:

2 "**13-2-402. ~~Other reasons~~ Reasons for cancellation.** The election administrator shall cancel the
3 registration of an elector:

4 (1) at the written request of the registered elector;

5 (2) if a certificate of the death of the elector is filed or if the elector is reported as deceased by the
6 department of public health and human services in the department's reports submitted to the county under
7 72-16-217;

8 (3) if the elector is of unsound mind as established by a court;

9 (4) if the incarceration of the elector in a penal institution for a felony conviction is legally
10 established;

11 (5) if a certified copy of a court order directing the cancellation is filed with the election
12 administrator;

13 (6) if the elector is successfully challenged and not allowed to vote at an election upon
14 determination of an election judge; ~~or~~

15 (7) if a notice is received from another county or state that the elector has registered in that county
16 or state; or

17 (8) if the elector fails to respond to certain confirmation mailings and fails to vote in two
18 subsequent federal elections."

19

20 **Section 8.** Section 13-2-403, MCA, is amended to read:

21 "**13-2-403. Challenge of registration.** (1) Forty-five or more days before the close of registration
22 for an election, three registered electors of a precinct may challenge the registration of an elector by filing
23 affidavits giving the name of the elector whose registration is challenged, the address at which ~~he~~ the
24 elector is registered, and a statement that the affiant has personal knowledge that the elector does not
25 reside at the address where registered.

26 (2) No later than 3 days after the filing of affidavits as provided in subsection (1), the election
27 administrator ~~must~~ shall send written notice to the elector whose registration is challenged, at the address
28 shown on the registration form. The notice must state that registration will be ~~cancelled~~ moved to the
29 inactive list within 15 days of the filing of the affidavits unless the elector refutes the affidavits by
30 submitting proof or a sworn statement that ~~he~~ the elector resides at the address given on ~~his~~ the

1 registration form.

2 (3) The election administrator must ~~cancel~~ move to the inactive list the registration of an elector
3 whose registration is challenged under this section 15 days after the filing of the affidavits required in
4 subsection (1) unless proof or a sworn statement as required in subsection (2) is received.

5 (4) If an elector proves or swears ~~he~~ that the elector resides at the address given on ~~his~~ the
6 registration form after ~~his~~ the registration has been ~~canceled~~ moved to the inactive list as provided in this
7 section, ~~he may reregister by completing a new registration form~~ the elector's registration must be moved
8 to the active list. ~~Such~~ The registration ~~shall be~~ is effective for the next election even though the
9 registration for that election is closed."

10

11 **Section 9.** Section 13-2-512, MCA, is amended to read:

12 "**13-2-512. Right to vote when precinct or name changed -- inactive elector -- change of status.**

13 (1) An elector who has changed ~~his~~ residence to a different precinct within the same county and has failed
14 to notify the election administrator of the change by a transfer or new registration form may vote in the
15 precinct where ~~he~~ the elector is registered at the first election at which ~~he~~ the elector offers to vote after
16 the change or at a central location designated by the election administrator unless ~~his~~ the elector's
17 registration has been canceled as provided in ~~13-2-207, 13-2-401, or~~ 13-2-402.

18 (2) An elector who ~~still residing~~ resides in the same precinct where registered, whose name has
19 changed, and who has failed to notify the election administrator of the change by a new registration form
20 may vote under ~~his~~ the elector's former name at the first election at which ~~he~~ the elector offers to vote
21 after the change unless ~~his~~ the elector's registration has been canceled as provided in ~~13-2-207, 13-2-401,~~
22 ~~or~~ 13-2-402.

23 (3) The elector ~~must~~ shall state ~~his~~ the elector's correct residence address and name when offering
24 to vote and ~~must~~ shall complete a transfer form or new registration form to make the necessary correction
25 before being allowed to sign the precinct register and vote.

26 (4) If an inactive elector appears to vote or votes by absentee ballot in a federal election, that
27 elector must be allowed to vote and must be removed from the inactive list and placed on the active list."

28

29 **Section 10.** Section 13-19-313, MCA, is amended to read:

30 "**13-19-313. Notice to elector -- opportunity to resolve questions.** (1) As soon as possible after

1 receipt of an elector's return/verification envelope, the election administrator shall give notice to the elector,
2 either by telephone or by first-class mail, if the election administrator:

3 (a) is unable to verify the elector's signature under 13-19-310; or

4 (b) has discovered a procedural mistake made by the elector that would invalidate ~~his~~ the elector's
5 ballot under 13-19-311.

6 (2) The election administrator shall inform the elector that ~~he~~ the elector may appear in person at
7 the election administrator's office prior to 8 p.m. on election day and verify the signature or correct the
8 mistake.

9 (3) Any elector ~~se~~ appearing pursuant to subsection (2) must be permitted to:

10 (a) verify ~~his~~ the elector's signature, after proof of identification, by affirming that the signature
11 is in fact ~~his~~ the elector's or by completing a new registration card containing ~~his~~ the elector's current
12 signature;

13 (b) correct any minor mistake if the correction would render the ballot valid; or

14 (c) if necessary, request and receive a replacement ballot and vote it at that time.

15 (4) If a mail ballot is returned, the election administrator shall mail a confirmation notice provided
16 for in 13-2-207. However, the notice must be sent by forwardable, first-class mail with a postage-paid,
17 return-addressed notice. If the confirmation notice is returned to the election administrator, the elector
18 must be placed on an inactive list until that elector becomes a qualified elector."

19

20 **NEW SECTION. Section 11. Active list and inactive list of electors to be maintained for federal**
21 **election.** The election administrator of a county shall maintain a list of active electors and a list of inactive
22 electors for the purposes of a federal election.

23

24 **NEW SECTION. Section 12. Maintenance of voter registration rolls for elections -- rules by**
25 **secretary of state.** (1) The secretary of state shall adopt rules specifying a list of procedures from which
26 an election administrator shall choose at least one procedure for the maintenance of accurate voter
27 registration rolls for use in elections.

28 (2) The procedures specified by the secretary of state must include the following procedures, which
29 an election administrator shall follow in every odd-numbered year:

30 (a) compare the entire list of registered electors against the national change of address files and

1 provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

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

5 (c) mail a targeted mailing to electors who have failed to vote by:

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

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

11 (iii) sending forwardable confirmation notices; or

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

13 (3) Any notices returned to the election administrator after using the procedures provided in
14 subsection (2) must be followed by an appropriate confirmation notice that is a forwardable, first-class,
15 postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the
16 confirmation notice, the election administrator shall move the elector to the inactive list.

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

19
20 **NEW SECTION. Section 13. Agency-based registration.** (1) Qualified individuals must be given
21 the opportunity to register to vote when applying for or receiving services or assistance:

22 (a) at an agency that provides public assistance;

23 (b) at or through an agency that provides state-funded programs primarily engaged in providing
24 services to persons with disabilities; or

25 (c) at another agency designated by the secretary of state with the consent of the agency.

26 (2) Agency-based registration sites must:

27 (a) distribute application for voter registration forms with each application for services or
28 assistance; and

29 (b) assist an applicant in completing an application for voter registration form, unless the applicant
30 refuses assistance.

1 (3) The completed application for voter registration form must be transmitted by the agency to the
2 election administrator of the county of the elector's residence within the time period specified by 42 U.S.C.
3 1973gg, et seq.

4 (4) As used in this section, the following definitions apply:

5 (a) "Agency" means a state agency as defined in 2-4-102(1)(a) or an office of a political
6 subdivision.

7 (b) "Political subdivision" means a city, county, consolidated city-county government, or a town.
8

9 **NEW SECTION. Section 14. Reactivation of elector.** (1) The name of an elector must be moved
10 by an election administrator from the inactive list to the active list of a county if an elector meets the
11 requirements for registration provided in this chapter and:

12 (a) appears in order to vote in a federal election; or

13 (b) notifies the county election administrator of the elector's current residence, which must be in
14 that county.

15 (2) After an elector has complied with either subsection (1)(a) or (1)(b), the county election
16 administrator shall place the elector's name on the active voting list for that county.
17

18 **NEW SECTION. Section 15. Electors not voting in 1996 general election -- placement on inactive**
19 **voting list.** Election administrators shall place the name of electors who did not vote in the 1996 general
20 election on the inactive voting list provided for in [section 11].
21

22 **NEW SECTION. Section 16. Repealer.** Section 13-2-401, MCA, is repealed.
23

24 **NEW SECTION. Section 17. Codification instruction.** [Sections 11 through 14] are intended to
25 be codified as an integral part of Title 13, chapter 2, part 2, and the provisions of Title 13, chapter 2, part
26 2, apply to [sections 11 through 14].
27

28 **NEW SECTION. Section 18. Effective date.** [This act] is effective on passage and approval.
29

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0361, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act implementing the National Voter Registration Act.

ASSUMPTIONS:

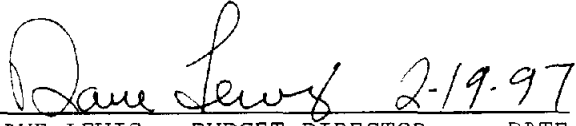
1. The Department of Commerce and the Office of the Secretary of State anticipate no fiscal impact from SB 361.

FISCAL IMPACT:

None

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The major cost will be postage and printing. An estimated 173,000 registered voters who did not vote in the presidential election are the people who will be noticed. It will cost approximately \$1 per person for notices and return envelopes to those registered voters who did not vote and who will go on the inactive list. Every four-year cycle the cost will be about \$173,000 statewide.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

STEVE BENEDICT, PRIMARY SPONSOR DATE

Fiscal Note for SB0361, as introduced

SB 361

Senate BILL NO. 361

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REQUIRING THE SECRETARY OF STATE TO ASSIST ELECTION ADMINISTRATORS WITH THE
IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT; REQUIRING THE SECRETARY OF
STATE TO ADOPT RULES PROVIDING PROCEDURES FOR AGENCY-BASED REGISTRATION; REQUIRING
THE SECRETARY OF STATE TO MAKE APPLICATIONS FOR VOTER REGISTRATION FORMS AVAILABLE;
PROVIDING ADDITIONAL LOCATIONS FOR AVAILABILITY OF VOTER REGISTRATION FORMS; REQUIRING
RETURN OR FORWARDING OF NOTICES OF REGISTRATION; PROVIDING FOR CANCELLATION OF VOTER
REGISTRATION; PROVIDING FOR LISTS OF ACTIVE AND INACTIVE ELECTORS; PROVIDING FOR
REACTIVATION OF ELECTOR'S NAMES FROM INACTIVE TO ACTIVE LISTS; AMENDING SECTIONS
1-2-112, 13-1-101, 13-1-203, 13-1-204, 13-2-203, 13-2-207, 13-2-402, 13-2-403, 13-2-512, AND
13-19-313, MCA; REPEALING SECTION 13-2-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE."

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO INTRODUCED COPY
(WHITE) FOR COMPLETE TEXT.**

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2 INTRODUCED BY BENEDICT

3
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 5 REQUIRING THE SECRETARY OF STATE TO ASSIST ELECTION ADMINISTRATORS WITH THE
 6 IMPLEMENTATION OF THE NATIONAL VOTER REGISTRATION ACT; REQUIRING THE SECRETARY OF
 7 STATE TO ADOPT RULES PROVIDING PROCEDURES FOR AGENCY-BASED REGISTRATION; REQUIRING
 8 THE SECRETARY OF STATE TO MAKE APPLICATIONS FOR VOTER REGISTRATION FORMS AVAILABLE;
 9 PROVIDING ADDITIONAL LOCATIONS FOR AVAILABILITY OF VOTER REGISTRATION FORMS; REQUIRING
 10 RETURN OR FORWARDING OF NOTICES OF REGISTRATION; PROVIDING FOR CANCELLATION OF VOTER
 11 REGISTRATION; PROVIDING FOR LISTS OF ACTIVE AND INACTIVE ELECTORS; PROVIDING FOR
 12 REACTIVATION OF ELECTOR'S NAMES FROM INACTIVE TO ACTIVE LISTS; AMENDING SECTIONS
 13 1-2-112, 13-1-101, 13-1-203, 13-1-204, 13-2-203, 13-2-207, 13-2-402, 13-2-403, 13-2-512, AND
 14 13-19-313, MCA; REPEALING SECTION 13-2-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 15 DATE."
 16

17 STATEMENT OF INTENT

18 A statement of intent is required for this bill because the bill gives the secretary of state authority
 19 to adopt administrative rules. [Section 12] requires the secretary of state to adopt rules providing
 20 alternative methods to be used by election administrators to ensure the maintenance of accurate voter
 21 registration rolls for elections. In adopting the alternatives, the secretary of state shall consider the
 22 recommendations of the federal election commission AND CONSULT WITH COUNTY ELECTION
 23 ADMINISTRATORS.
 24

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 26

27 **Section 1.** Section 1-2-112, MCA, is amended to read:

28 **"1-2-112. Statutes imposing new local government duties. (1) Any Except as provided in this**
 29 **section, a law enacted by the legislature that requires a local government unit to perform an activity or**
 30 **provide a service or facility that requires the direct expenditure of additional funds must provide a specific**

1 means to finance the activity, service, or facility other than mill levies or the all-purpose mill levy. Any law
 2 that fails to provide a specific means to finance any activity, service, or facility is not effective until specific
 3 means of financing are provided by the legislature from state or federal funds.

4 (2) The legislature may fulfill the requirements of this section by providing for an increase in the
 5 existing authorized mill levies, the all-purpose mill levy, special mill levies, or the remission of money by the
 6 state to local governments. However, an increase in the existing authorized mill levies, the all-purpose mill
 7 levy, or any special mill levy must provide an amount necessary to finance the additional costs, and if
 8 financing is provided by remission of funds by the state, the remission must bear a reasonable relationship
 9 to the actual cost of performing the activity or providing the service or facility.

10 (3) Subsequent legislation may not be considered to supersede or modify any provision of this
 11 section, whether by implication or otherwise, except to the extent that the legislation does so expressly.

12 (4) This section does not apply to:

13 (a) any law under which the required expenditure of additional local funds is an insubstantial amount
 14 that can be readily absorbed into the budget of an existing program. A required expenditure of the
 15 equivalent of approximately 0.1 mill or less levied on taxable property of the local government unit may be
 16 considered an insubstantial amount.

17 (b) a law necessary to implement the National Voter Registration Act of 1993, Public Law 103-31."

18

19 **Section 2.** Section 13-1-101, MCA, is amended to read:

20 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
 21 following definitions apply:

22 (1) "Active elector" means a qualified elector whose name is on the active list.

23 (2) "Active list" means a list of active electors maintained by an election administrator pursuant
 24 to [section 11].

25 (3) "Application for voter registration" means a completed voter registration card submitted to the
 26 election administrator and subject to confirmation, as provided in 13-2-207.

27 ~~(4)~~(4) "Anything of value" means any goods that have a certain utility to the recipient that is real
 28 and that is ordinarily not given away free but is purchased.

29 ~~(2)~~(5) "Candidate" means:

30 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination

1 or appointment as a candidate for public office as required by law;

2 (b) for the purposes of chapters 35, 36, or 37, an individual who has solicited or received and
 3 retained contributions, made expenditures, or given consent to an individual, organization, political party,
 4 or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf
 5 to secure nomination or election to any office at any time, whether or not the office for which the individual
 6 will seek nomination or election is known when the:

7 (i) solicitation is made;

8 (ii) contribution is received and retained; or

9 (iii) expenditure is made; and

10 (c) an officeholder who is the subject of a recall election.

11 ~~(3)~~(6) (a) "Contribution" means:

12 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of
 13 value to influence an election;

14 (ii) a transfer of funds between political committees;

15 (iii) the payment by a person other than a candidate or political committee of compensation for the
 16 personal services of another person that are rendered to a candidate or political committee.

17 (b) "Contribution" does not mean:

18 (i) services provided without compensation by individuals volunteering a portion or all of their time
 19 on behalf of a candidate or political committee or meals and lodging provided by individuals in their private
 20 residence for a candidate or other individual;

21 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities
 22 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

23 (iii) the cost of any communication by any membership organization or corporation to its members
 24 or stockholders or employees, as long as the organization is not a primary political committee; or

25 (iv) filing fees paid by the candidate.

26 ~~(4)~~(7) "Election" means a general, regular, special, or primary election held pursuant to the
 27 requirements of state law, regardless of the time or purpose.

28 ~~(5)~~(8) "Election administrator" means the county clerk and recorder or the individual designated by
 29 a county governing body to be responsible for all election administration duties, except that with regard
 30 to school elections, the term means the school district clerk.

1 ~~(6)~~(9) "Elector" means an individual qualified and registered to vote under state law.

2 ~~(7)~~(10) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge,
3 or gift of money or anything of value made for the purpose of influencing the results of an election.

4 (b) "Expenditure" does not mean:

5 (i) services, food, or lodging provided in a manner that they are not contributions under subsection
6 ~~(3)~~ (6);

7 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging,
8 or personal necessities for the candidate and the candidate's family;

9 (iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities
10 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

11 (iv) the cost of any communication by any membership organization or corporation to its members
12 or stockholders or employees, as long as the organization is not a primary political committee.

13 (11) "Federal election" means a general election in which an elector may vote for individuals for
14 the office of president of the United States or for the United States congress.

15 ~~(8)~~(12) "General election" or "regular election" means an election held for the election of public
16 officers throughout the state at times specified by law, including elections for officers of political
17 subdivisions when the time of the election is set on the same date for all similar political subdivisions in the
18 state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana
19 constitution to be submitted by the legislature to the electors at a general election, "general election" means
20 an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9,
21 of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular
22 election means an election held at the time provided in 13-1-104(1).

23 (13) "Inactive elector" means a qualified elector who is placed on an inactive list.

24 (14) "Inactive list" means a list of inactive electors maintained by an election administrator pursuant
25 to [section 11].

26 ~~(9)~~(15) "Individual" means a human being.

27 ~~(4)~~(16) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
28 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments,
29 recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of
30 chapters 35, 36, or 37, an issue becomes a "ballot issue" upon certification by the proper official that the

1 legal procedure necessary for its qualification and placement upon the ballot has been completed, except
2 that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the
3 petition or referral.

4 ~~(11)~~(17) "Person" means an individual, corporation, association, firm, partnership, cooperative,
5 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection
6 ~~(2)~~ (5) of this section.

7 ~~(12)~~(18) "Political committee" means a combination of two or more individuals or a person other
8 than an individual who makes a contribution or expenditure:

9 (a) to support or oppose a candidate or a committee organized to support or oppose a candidate
10 or a petition for nomination; or

11 (b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot
12 issue; or

13 (c) as an earmarked contribution.

14 ~~(13)~~(19) "Political subdivision" means a county, consolidated municipal-county government,
15 municipality, special district, or any other unit of government, except school districts, having authority to
16 hold an election for officers or on a ballot issue.

17 ~~(14)~~(20) "Primary" or "primary election" means an election held throughout the state to nominate
18 candidates for public office at times specified by law, including nominations of candidates for offices of
19 political subdivisions when the time for nominations is set on the same date for all similar subdivisions in
20 the state.

21 ~~(15)~~(21) "Public office" means a state, county, municipal, school, or other district office that is filled
22 by the people at an election.

23 ~~(16)~~(22) "Registrar" means the county election administrator and any regularly appointed deputy
24 or assistant election administrator.

25 ~~(17)~~(23) "Special election" means an election other than a statutorily scheduled primary or general
26 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
27 scheduled election.

28 ~~(18)~~(24) "Voting machine or device" means any equipment used to record, tabulate, or in any
29 manner process the vote of an elector."

30

1 **Section 3.** Section 13-1-203, MCA, is amended to read:

2 **"13-1-203. Chief election officer to advise, assist, and train.** The secretary of state shall advise
3 and assist election administrators with regard to application, operation, and interpretation of Title 13,
4 except for ~~chapters~~ chapter 35, 36, or 37, and the implementation and operation of the National Voter
5 Registration Act of 1993, Public Law 103-31. The secretary of state shall hold at least one workshop every
6 2 years to provide training and assistance to election administrators. Election administrators must be
7 reimbursed, from funds appropriated to the secretary of state, for their mileage and expenses for attending
8 the workshops at the rates set for mileage and expenses in 2-18-501 through 2-18-503. At the discretion
9 of the secretary of state and within the budget limits allowed for workshops, the workshops may be held
10 in several sessions at separate locations in the state."

11

12 **Section 4.** Section 13-1-204, MCA, is amended to read:

13 **"13-1-204. Election records to be kept by secretary of state.** (1) The secretary of state shall
14 maintain current and accurate records including:

15 (a) a list of all precincts in each county;

16 (b) a map showing the boundaries of all precincts in each county;

17 (c) a count of the number of registered voters in each precinct for the latest general election;

18 (d) a list of legislative districts, judicial districts, and any multicounty election districts, showing
19 the precinct numbers of each county contained in each district and the number of registered voters in each
20 district for the ~~latest~~ most recent general election;

21 (e) a count of votes cast at the ~~latest~~ most recent general election by precinct and by legislative,
22 judicial, and multicounty districts; and

23 (f) records required to be submitted from local election administrators and other agencies and
24 coordinated by the secretary of state pursuant to the National Voter Registration Act of 1993, Public Law
25 103-31.

26 (2) Each election administrator shall provide the information and map for the record required in
27 subsection (1) in the form and at the time prescribed by the secretary of state.

28 (3) The records required in subsection (1) and all records in the secretary of state's office pertaining
29 to elections ~~shall~~ must be open for public inspection during normal office hours."

30

1 **Section 5.** Section 13-2-203, MCA, is amended to read:

2 "**13-2-203. Registration by mail.** (1) A qualified individual may register by mailing, postage paid,
3 a properly completed application for voter registration form to the election administrator in the county in
4 which the individual resides.

5 (2) The election administrator shall send applications for voter registration forms for mail
6 registrations to all qualified individuals requesting them and shall, in addition, arrange for the forms to be
7 widely and conveniently available within the county. The secretary of state shall make applications for voter
8 registration forms available to governmental entities, private entities, and organized voter registration
9 efforts. The application for mail voter registration form must be designed as prescribed by the secretary of
10 state. A form prescribed by the secretary of state explaining voter registration qualifications, deadlines, and
11 purge information must be distributed with the application for mail voter registration form.

12 (3) The elector shall complete, sign, and return the application for mail voter registration form.

13 (4) The application for voter registration form must be received by the election administrator on
14 or before the day of the close of registration and must be returned to the administrator no later than 15
15 days after the date it is signed.

16 (5) ~~Registration~~ Application for voter registration forms properly executed before the close of
17 registration must be accepted for 3 days after the close of registration."
18

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

20 "**13-2-207. Notice Confirmation of registration.** (1) The election administrator shall give or mail
21 to each elector a notice, ~~affirming~~ confirming registration and giving the location of the elector's polling
22 place. ~~Mailed notices must conform to postal regulations to ensure return, not forwarding, of undelivered~~
23 ~~notices.~~ A notice sent to an elector to whom the notice is not personally given must be sent by
24 nonforwardable, first-class mail, which must conform to postal regulations to ensure address corrections
25 are received. If the notice is returned undeliverable the application for voter registration may not be placed
26 on the register of electors kept by the election administrator.

27 (2) The election administrator ~~must~~ shall investigate the reason for the return of any mailed notices
28 ~~and correct the address on the registration form~~ and mail a ~~new~~ confirmation notice ~~or cancel the~~
29 ~~registration of the elector if a diligent effort fails to locate the elector named on the registration form to the~~
30 ~~elector.~~ The notice must conform to postal regulations to ensure return, not forwarding, of undelivered

1 notices."

2

3 **Section 7.** Section 13-2-402, MCA, is amended to read:

4 **"13-2-402. ~~Other reasons~~ Reasons for cancellation.** The election administrator shall cancel the
5 registration of an elector:

6 (1) at the written request of the registered elector;

7 (2) if a certificate of the death of the elector is filed or if the elector is reported as deceased by the
8 department of public health and human services in the department's reports submitted to the county under
9 72-16-217;

10 (3) if the elector is of unsound mind as established by a court;

11 (4) if the incarceration of the elector in a penal institution for a felony conviction is legally
12 established;

13 (5) if a certified copy of a court order directing the cancellation is filed with the election
14 administrator;

15 (6) if the elector is successfully challenged and not allowed to vote at an election upon
16 determination of an election judge; ~~or~~

17 (7) if a notice is received from another county or state that the elector has registered in that county
18 or state; or

19 (8) if the elector fails to respond to certain confirmation mailings and fails to vote in two
20 subsequent federal elections."

21

22 **Section 8.** Section 13-2-403, MCA, is amended to read:

23 **"13-2-403. Challenge of registration.** (1) Forty-five or more days before the close of registration
24 for an election, three registered electors of a precinct may challenge the registration of an elector by filing
25 affidavits giving the name of the elector whose registration is challenged, the address at which ~~he~~ the
26 elector is registered, and a statement that the affiant has personal knowledge that the elector does not
27 reside at the address where registered.

28 (2) No later than 3 days after the filing of affidavits as provided in subsection (1), the election
29 administrator ~~must~~ shall send written notice to the elector whose registration is challenged, at the address
30 shown on the registration form. The notice must state that registration will be ~~cancelled~~ moved to the

1 inactive list within 15 days of the filing of the affidavits unless the elector refutes the affidavits by
 2 submitting proof or a sworn statement that ~~he~~ the elector resides at the address given on ~~his~~ the
 3 registration form.

4 (3) The election administrator must ~~cancel~~ move to the inactive list the registration of an elector
 5 whose registration is challenged under this section 15 days after the filing of the affidavits required in
 6 subsection (1) unless proof or a sworn statement as required in subsection (2) is received.

7 (4) If an elector proves or swears ~~he~~ that the elector resides at the address given on ~~his~~ the
 8 registration form after ~~his~~ the registration has been ~~cancelled~~ moved to the inactive list as provided in this
 9 section, ~~he may re-register by completing a new registration form~~ the elector's registration must be moved
 10 to the active list. Such The registration ~~shall be~~ is effective for the next election even though the
 11 registration for that election is closed."
 12

13 **Section 9.** Section 13-2-512, MCA, is amended to read:

14 **"13-2-512. Right to vote when precinct or name changed -- inactive elector -- change of status.**

15 (1) An elector who has changed ~~his~~ residence to a different precinct within the same county and has failed
 16 to notify the election administrator of the change by a transfer or new registration form may vote in the
 17 precinct where ~~he~~ the elector is registered at the first election at which ~~he~~ the elector offers to vote after
 18 the change or at a central location designated by the election administrator unless ~~his~~ the elector's
 19 registration has been canceled as provided in ~~13-2-207, 13-2-401, or~~ 13-2-402.

20 (2) An elector who still residing resides in the same precinct where registered, whose name has
 21 changed, and who has failed to notify the election administrator of the change by a new registration form
 22 may vote under ~~his~~ the elector's former name at the first election at which ~~he~~ the elector offers to vote
 23 after the change unless ~~his~~ the elector's registration has been canceled as provided in ~~13-2-207, 13-2-401,~~
 24 ~~or~~ 13-2-402.

25 (3) The elector ~~must~~ shall state ~~his~~ the elector's correct residence address and name when offering
 26 to vote and ~~must~~ shall complete a transfer form or new registration form to make the necessary correction
 27 before being allowed to sign the precinct register and vote.

28 (4) If an inactive elector appears to vote or votes by absentee ballot in a federal election, that
 29 elector must be allowed to vote and must be removed from the inactive list and placed on the active list."
 30

1 **Section 10.** Section 13-19-313, MCA, is amended to read:

2 "**13-19-313. Notice to elector -- opportunity to resolve questions.** (1) As soon as possible after
3 receipt of an elector's return/verification envelope, the election administrator shall give notice to the elector,
4 either by telephone or by first-class mail, if the election administrator:

5 (a) is unable to verify the elector's signature under 13-19-310; or

6 (b) has discovered a procedural mistake made by the elector that would invalidate ~~his~~ the elector's
7 ballot under 13-19-311.

8 (2) The election administrator shall inform the elector that ~~he~~ the elector may appear in person at
9 the election administrator's office prior to 8 p.m. on election day and verify the signature or correct the
10 mistake.

11 (3) Any elector ~~se~~ appearing pursuant to subsection (2) must be permitted to:

12 (a) verify ~~his~~ the elector's signature, after proof of identification, by affirming that the signature
13 is in fact ~~his~~ the elector's or by completing a new registration card containing ~~his~~ the elector's current
14 signature;

15 (b) correct any minor mistake if the correction would render the ballot valid; or

16 (c) if necessary, request and receive a replacement ballot and vote it at that time.

17 (4) If a mail ballot is returned, the election administrator shall mail a confirmation notice provided
18 for in 13-2-207. However, the notice must be sent by forwardable, first-class mail with a postage-paid,
19 return-addressed notice. If the confirmation notice is returned to the election administrator, the elector
20 must be placed on an inactive list until that elector becomes a qualified elector."

21

22 **NEW SECTION. Section 11. Active list and inactive list of electors to be maintained for federal**
23 **election.** The election administrator of a county shall maintain a list of active electors and a list of inactive
24 electors for the purposes of a federal election.

25

26 **NEW SECTION. Section 12. Maintenance of voter registration rolls for elections -- rules by**
27 **secretary of state.** (1) The secretary of state shall adopt rules specifying a list of procedures from which
28 an election administrator shall choose at least one procedure for the maintenance of accurate voter
29 registration rolls for use in elections.

30 (2) The procedures specified by the secretary of state must include the following procedures, which

1 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
5 to all registered electors of each jurisdiction to confirm their addresses and provide the appropriate
6 confirmation notice to those individuals who return the notices;

7 (c) mail a targeted mailing to electors who have failed to vote by:

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

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

13 (iii) sending forwardable confirmation notices; or

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

15 (3) Any notices returned to the election administrator after using the procedures provided in
16 subsection (2) must be followed by an appropriate confirmation notice that is a forwardable, first-class,
17 postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the
18 confirmation notice, the election administrator shall move the elector to the inactive list.

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

21

22 **NEW SECTION. Section 13. Agency-based registration.** (1) Qualified individuals must be given
23 the opportunity to register to vote when applying for or receiving services or assistance:

24 (a) at an agency that provides public assistance;

25 (b) at or through an agency that provides state-funded programs primarily engaged in providing
26 services to persons with disabilities; or

27 (c) at another agency designated by the secretary of state with the consent of the agency.

28 (2) Agency-based registration sites must:

29 (a) distribute application for voter registration forms with each application for services or
30 assistance; and

1 (b) assist an applicant in completing an application for voter registration form, unless the applicant
2 refuses assistance.

3 (3) The completed application for voter registration form must be transmitted by the agency to the
4 election administrator of the county of the elector's residence within the time period specified by 42 U.S.C.
5 1973gg, et seq.

6 (4) As used in this section, the following definitions apply:

7 (a) "Agency" means a state agency as defined in 2-4-102(1)(a) or an office of a political
8 subdivision.

9 (b) "Political subdivision" means a city, county, consolidated city-county government, or a town.
10

11 **NEW SECTION. Section 14. Reactivation of elector.** (1) The name of an elector must be moved
12 by an election administrator from the inactive list to the active list of a county if an elector meets the
13 requirements for registration provided in this chapter and:

14 (a) appears in order to vote in a federal election; or

15 (b) notifies the county election administrator of the elector's current residence, which must be in
16 that county.

17 (2) After an elector has complied with either subsection (1)(a) or (1)(b), the county election
18 administrator shall place the elector's name on the active voting list for that county.
19

20 **NEW SECTION. Section 15. Electors not voting in 1996 general election -- placement on inactive**
21 **voting list.** Election administrators shall place the name of electors who did not vote in the 1996 general
22 election on the inactive voting list provided for in [section 11].
23

24 **NEW SECTION. Section 16. Repealer.** Section 13-2-401, MCA, is repealed.
25

26 **NEW SECTION. Section 17. Codification instruction.** [Sections 11 through 14] are intended to
27 be codified as an integral part of Title 13, chapter 2, part 2, and the provisions of Title 13, chapter 2, part
28 2, apply to [sections 11 through 14].
29

30 **NEW SECTION. Section 18. Effective date.** [This act] is effective on passage and approval.

-END-

1 SENATE BILL NO. 361

2 INTRODUCED BY BENEDICT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE NATIONAL VOTER REGISTRATION ACT;
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14 13-19-313, MCA; REPEALING SECTION 13-2-401, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
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**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
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 30 provide a service or facility that requires the direct expenditure of additional funds must provide a specific

1 means to finance the activity, service, or facility other than mill levies or the all-purpose mill levy. Any law
 2 that fails to provide a specific means to finance any activity, service, or facility is not effective until specific
 3 means of financing are provided by the legislature from state or federal funds.

4 (2) The legislature may fulfill the requirements of this section by providing for an increase in the
 5 existing authorized mill levies, the all-purpose mill levy, special mill levies, or the remission of money by the
 6 state to local governments. However, an increase in the existing authorized mill levies, the all-purpose mill
 7 levy, or any special mill levy must provide an amount necessary to finance the additional costs, and if
 8 financing is provided by remission of funds by the state, the remission must bear a reasonable relationship
 9 to the actual cost of performing the activity or providing the service or facility.

10 (3) Subsequent legislation may not be considered to supersede or modify any provision of this
 11 section, whether by implication or otherwise, except to the extent that the legislation does so expressly.

12 (4) This section does not apply to:

13 (a) any law under which the required expenditure of additional local funds is an insubstantial amount
 14 that can be readily absorbed into the budget of an existing program. A required expenditure of the
 15 equivalent of approximately 0.1 mill or less levied on taxable property of the local government unit may be
 16 considered an insubstantial amount.

17 (b) a law necessary to implement the National Voter Registration Act of 1993, Public Law 103-31."

18

19 **Section 2.** Section 13-1-101, MCA, is amended to read:

20 "13-1-101. **Definitions.** As used in this title, unless the context clearly indicates otherwise, the
 21 following definitions apply:

22 (1) "Active elector" means a qualified elector whose name is on the active list.

23 (2) "Active list" means a list of active electors maintained by an election administrator pursuant
 24 to [section 11].

25 (3) "Application for voter registration" means a completed voter registration card submitted to the
 26 election administrator and subject to confirmation, as provided in 13-2-207.

27 ~~(4)~~(4) "Anything of value" means any goods that have a certain utility to the recipient that is real
 28 and that is ordinarily not given away free but is purchased.

29 ~~(2)~~(5) "Candidate" means:

30 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination

1 or appointment as a candidate for public office as required by law;

2 (b) for the purposes of chapters 35, 36, or 37, an individual who has solicited or received and
3 retained contributions, made expenditures, or given consent to an individual, organization, political party,
4 or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf
5 to secure nomination or election to any office at any time, whether or not the office for which the individual
6 will seek nomination or election is known when the:

7 (i) solicitation is made;

8 (ii) contribution is received and retained; or

9 (iii) expenditure is made; and

10 (c) an officeholder who is the subject of a recall election.

11 ~~(3)(6)~~ (a) "Contribution" means:

12 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of
13 value to influence an election;

14 (ii) a transfer of funds between political committees;

15 (iii) the payment by a person other than a candidate or political committee of compensation for the
16 personal services of another person that are rendered to a candidate or political committee.

17 (b) "Contribution" does not mean:

18 (i) services provided without compensation by individuals volunteering a portion or all of their time
19 on behalf of a candidate or political committee or meals and lodging provided by individuals in their private
20 residence for a candidate or other individual;

21 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities
22 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

23 (iii) the cost of any communication by any membership organization or corporation to its members
24 or stockholders or employees, as long as the organization is not a primary political committee; or

25 (iv) filing fees paid by the candidate.

26 ~~(4)(7)~~ "Election" means a general, regular, special, or primary election held pursuant to the
27 requirements of state law, regardless of the time or purpose.

28 ~~(5)(8)~~ "Election administrator" means the county clerk and recorder or the individual designated by
29 a county governing body to be responsible for all election administration duties, except that with regard
30 to school elections, the term means the school district clerk.

1 ~~(6)~~(9) "Elector" means an individual qualified and registered to vote under state law.

2 ~~(7)~~(10) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge,
3 or gift of money or anything of value made for the purpose of influencing the results of an election.

4 (b) "Expenditure" does not mean:

5 (i) services, food, or lodging provided in a manner that they are not contributions under subsection

6 ~~(3)~~ (6);

7 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging,
8 or personal necessities for the candidate and the candidate's family;

9 (iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities
10 of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

11 (iv) the cost of any communication by any membership organization or corporation to its members
12 or stockholders or employees, as long as the organization is not a primary political committee.

13 (11) "Federal election" means a general election in which an elector may vote for individuals for
14 the office of president of the United States or for the United States congress.

15 ~~(8)~~(12) "General election" or "regular election" means an election held for the election of public
16 officers throughout the state at times specified by law, including elections for officers of political
17 subdivisions when the time of the election is set on the same date for all similar political subdivisions in the
18 state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana
19 constitution to be submitted by the legislature to the electors at a general election, "general election" means
20 an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9,
21 of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular
22 election means an election held at the time provided in 13-1-104(1).

23 (13) "Inactive elector" means a qualified elector who is placed on an inactive list.

24 (14) "Inactive list" means a list of inactive electors maintained by an election administrator pursuant
25 to [section 11].

26 ~~(9)~~(15) "Individual" means a human being.

27 ~~(10)~~(16) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
28 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments,
29 recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of
30 chapters 35, 36, or 37, an issue becomes a "ballot issue" upon certification by the proper official that the

1 legal procedure necessary for its qualification and placement upon the ballot has been completed, except
2 that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the
3 petition or referral.

4 ~~(11)~~(17) "Person" means an individual, corporation, association, firm, partnership, cooperative,
5 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection
6 ~~(2)~~ (5) of this section.

7 ~~(12)~~(18) "Political committee" means a combination of two or more individuals or a person other
8 than an individual who makes a contribution or expenditure:

9 (a) to support or oppose a candidate or a committee organized to support or oppose a candidate
10 or a petition for nomination; or

11 (b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot
12 issue; or

13 (c) as an earmarked contribution.

14 ~~(13)~~(19) "Political subdivision" means a county, consolidated municipal-county government,
15 municipality, special district, or any other unit of government, except school districts, having authority to
16 hold an election for officers or on a ballot issue.

17 ~~(14)~~(20) "Primary" or "primary election" means an election held throughout the state to nominate
18 candidates for public office at times specified by law, including nominations of candidates for offices of
19 political subdivisions when the time for nominations is set on the same date for all similar subdivisions in
20 the state.

21 ~~(15)~~(21) "Public office" means a state, county, municipal, school, or other district office that is filled
22 by the people at an election.

23 ~~(16)~~(22) "Registrar" means the county election administrator and any regularly appointed deputy
24 or assistant election administrator.

25 ~~(17)~~(23) "Special election" means an election other than a statutorily scheduled primary or general
26 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
27 scheduled election.

28 ~~(18)~~(24) "Voting machine or device" means any equipment used to record, tabulate, or in any
29 manner process the vote of an elector."

30

1 **Section 3.** Section 13-1-203, MCA, is amended to read:

2 **"13-1-203. Chief election officer to advise, assist, and train.** The secretary of state shall advise
3 and assist election administrators with regard to application, operation, and interpretation of Title 13,
4 except for ~~chapters~~ chapter 35, 36, or 37, and the implementation and operation of the National Voter
5 Registration Act of 1993, Public Law 103-31. The secretary of state shall hold at least one workshop every
6 2 years to provide training and assistance to election administrators. Election administrators must be
7 reimbursed, from funds appropriated to the secretary of state, for their mileage and expenses for attending
8 the workshops at the rates set for mileage and expenses in 2-18-501 through 2-18-503. At the discretion
9 of the secretary of state and within the budget limits allowed for workshops, the workshops may be held
10 in several sessions at separate locations in the state."

11

12 **Section 4.** Section 13-1-204, MCA, is amended to read:

13 **"13-1-204. Election records to be kept by secretary of state.** (1) The secretary of state shall
14 maintain current and accurate records including:

15 (a) a list of all precincts in each county;

16 (b) a map showing the boundaries of all precincts in each county;

17 (c) a count of the number of registered voters in each precinct for the latest general election;

18 (d) a list of legislative districts, judicial districts, and any multicounty election districts, showing
19 the precinct numbers of each county contained in each district and the number of registered voters in each
20 district for the ~~latest~~ most recent general election;

21 (e) a count of votes cast at the ~~latest~~ most recent general election by precinct and by legislative,
22 judicial, and multicounty districts; and

23 (f) records required to be submitted from local election administrators and other agencies and
24 coordinated by the secretary of state pursuant to the National Voter Registration Act of 1993, Public Law
25 103-31.

26 (2) Each election administrator shall provide the information and map for the record required in
27 subsection (1) in the form and at the time prescribed by the secretary of state.

28 (3) The records required in subsection (1) and all records in the secretary of state's office pertaining
29 to elections ~~shall~~ must be open for public inspection during normal office hours."

30

1 **Section 5.** Section 13-2-203, MCA, is amended to read:

2 "13-2-203. **Registration by mail.** (1) A qualified individual may register by mailing, postage paid,
3 a properly completed application for voter registration form to the election administrator in the county in
4 which the individual resides.

5 (2) The election administrator shall send applications for voter registration forms for mail
6 registrations to all qualified individuals requesting them and shall, in addition, arrange for the forms to be
7 widely and conveniently available within the county. The secretary of state shall make applications for voter
8 registration forms available to governmental entities, private entities, and organized voter registration
9 efforts. The application for mail voter registration form must be designed as prescribed by the secretary of
10 state. A form prescribed by the secretary of state explaining voter registration qualifications, deadlines, and
11 purge information must be distributed with the application for mail voter registration form.

12 (3) The elector shall complete, sign, and return the application for mail voter registration form.

13 (4) The application for voter registration form must be received by the election administrator on
14 or before the day of the close of registration and must be returned to the administrator no later than 15
15 days after the date it is signed.

16 (5) ~~Registration~~ Application for voter registration forms properly executed before the close of
17 registration must be accepted for 3 days after the close of registration."
18

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

20 "13-2-207. **Notice Confirmation of registration.** (1) The election administrator shall give or mail
21 to each elector a notice, affirming confirming registration and giving the location of the elector's polling
22 place. ~~Mailed notices must conform to postal regulations to ensure return, not forwarding, of undelivered~~
23 ~~notices.~~ A notice sent to an elector to whom the notice is not personally given must be sent by
24 nonforwardable, first-class mail, which must conform to postal regulations to ensure address corrections
25 are received. If the notice is returned undeliverable the application for voter registration may not be placed
26 on the register of electors kept by the election administrator.

27 (2) The election administrator ~~must~~ shall investigate the reason for the return of any mailed notices
28 ~~and correct the address on the registration form~~ and mail a ~~new~~ confirmation notice ~~or cancel the~~
29 ~~registration of the elector if a diligent effort fails to locate the elector named on the registration form to the~~
30 ~~elector.~~ The notice must conform to postal regulations to ensure return, not forwarding, of undelivered

1 notices."

2

3 **Section 7.** Section 13-2-402, MCA, is amended to read:

4 "13-2-402. ~~Other reasons~~ **Reasons** for cancellation. The election administrator shall cancel the
5 registration of an elector:

6 (1) at the written request of the registered elector;

7 (2) if a certificate of the death of the elector is filed or if the elector is reported as deceased by the
8 department of public health and human services in the department's reports submitted to the county under
9 72-16-217;

10 (3) if the elector is of unsound mind as established by a court;

11 (4) if the incarceration of the elector in a penal institution for a felony conviction is legally
12 established;

13 (5) if a certified copy of a court order directing the cancellation is filed with the election
14 administrator;

15 (6) if the elector is successfully challenged and not allowed to vote at an election upon
16 determination of an election judge; ~~or~~

17 (7) if a notice is received from another county or state that the elector has registered in that county
18 or state; or

19 (8) if the elector fails to respond to certain confirmation mailings and fails to vote in two
20 subsequent federal elections."

21

22 **Section 8.** Section 13-2-403, MCA, is amended to read:

23 "13-2-403. **Challenge of registration.** (1) Forty-five or more days before the close of registration
24 for an election, three registered electors of a precinct may challenge the registration of an elector by filing
25 affidavits giving the name of the elector whose registration is challenged, the address at which ~~he~~ the
26 elector is registered, and a statement that the affiant has personal knowledge that the elector does not
27 reside at the address where registered.

28 (2) No later than 3 days after the filing of affidavits as provided in subsection (1), the election
29 administrator ~~must~~ shall send written notice to the elector whose registration is challenged, at the address
30 shown on the registration form. The notice must state that registration will be ~~cancelled~~ moved to the

1 inactive list within 15 days of the filing of the affidavits unless the elector refutes the affidavits by
 2 submitting proof or a sworn statement that ~~he~~ the elector resides at the address given on ~~his~~ the
 3 registration form.

4 (3) The election administrator must ~~cancel~~ move to the inactive list the registration of an elector
 5 whose registration is challenged under this section 15 days after the filing of the affidavits required in
 6 subsection (1) unless proof or a sworn statement as required in subsection (2) is received.

7 (4) If an elector proves or swears ~~he~~ that the elector resides at the address given on ~~his~~ the
 8 registration form after ~~his~~ the registration has been ~~cancelled~~ moved to the inactive list as provided in this
 9 section, ~~he may reregister by completing a new registration form~~ the elector's registration must be moved
 10 to the active list. Such The registration ~~shall be~~ is effective for the next election even though the
 11 registration for that election is closed."
 12

13 **Section 9.** Section 13-2-512, MCA, is amended to read:

14 **"13-2-512. Right to vote when precinct or name changed -- inactive elector -- change of status.**

15 (1) An elector who has changed ~~his~~ residence to a different precinct within the same county and has failed
 16 to notify the election administrator of the change by a transfer or new registration form may vote in the
 17 precinct where ~~he~~ the elector is registered at the first election at which ~~he~~ the elector offers to vote after
 18 the change or at a central location designated by the election administrator unless ~~his~~ the elector's
 19 registration has been canceled as provided in ~~13-2-207, 13-2-401, or~~ 13-2-402.

20 (2) An elector who still residing resides in the same precinct where registered, whose name has
 21 changed, and who has failed to notify the election administrator of the change by a new registration form
 22 may vote under ~~his~~ the elector's former name at the first election at which ~~he~~ the elector offers to vote
 23 after the change unless ~~his~~ the elector's registration has been canceled as provided in ~~13-2-207, 13-2-401,~~
 24 ~~or~~ 13-2-402.

25 (3) The elector ~~must~~ shall state ~~his~~ the elector's correct residence address and name when offering
 26 to vote and ~~must~~ shall complete a transfer form or new registration form to make the necessary correction
 27 before being allowed to sign the precinct register and vote.

28 (4) If an inactive elector appears to vote or votes by absentee ballot in a federal election, that
 29 elector must be allowed to vote and must be removed from the inactive list and placed on the active list."
 30

1 **Section 10.** Section 13-19-313, MCA, is amended to read:

2 "**13-19-313. Notice to elector -- opportunity to resolve questions.** (1) As soon as possible after
3 receipt of an elector's return/verification envelope, the election administrator shall give notice to the elector,
4 either by telephone or by first-class mail, if the election administrator:

5 (a) is unable to verify the elector's signature under 13-19-310; or

6 (b) has discovered a procedural mistake made by the elector that would invalidate ~~his~~ the elector's
7 ballot under 13-19-311.

8 (2) The election administrator shall inform the elector that ~~he~~ the elector may appear in person at
9 the election administrator's office prior to 8 p.m. on election day and verify the signature or correct the
10 mistake.

11 (3) Any elector ~~se~~ appearing pursuant to subsection (2) must be permitted to:

12 (a) verify ~~his~~ the elector's signature, after proof of identification, by affirming that the signature
13 is in fact ~~his~~ the elector's or by completing a new registration card containing ~~his~~ the elector's current
14 signature;

15 (b) correct any minor mistake if the correction would render the ballot valid; or

16 (c) if necessary, request and receive a replacement ballot and vote it at that time.

17 (4) If a mail ballot is returned, the election administrator shall mail a confirmation notice provided
18 for in 13-2-207. However, the notice must be sent by forwardable, first-class mail with a postage-paid,
19 return-addressed notice. If the confirmation notice is returned to the election administrator, the elector
20 must be placed on an inactive list until that elector becomes a qualified elector."

21

22 **NEW SECTION. Section 11. Active list and inactive list of electors to be maintained for federal**
23 **election.** The election administrator of a county shall maintain a list of active electors and a list of inactive
24 electors for the purposes of a federal election.

25

26 **NEW SECTION. Section 12. Maintenance of voter registration rolls for elections -- rules by**
27 **secretary of state.** (1) The secretary of state shall adopt rules specifying a list of procedures from which
28 an election administrator shall choose at least one procedure for the maintenance of accurate voter
29 registration rolls for use in elections.

30 (2) The procedures specified by the secretary of state must include the following procedures, which

1 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
5 to all registered electors of each jurisdiction to confirm their addresses and provide the appropriate
6 confirmation notice to those individuals who return the notices;

7 (c) mail a targeted mailing to electors who have failed to vote by:

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

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

13 (iii) sending forwardable confirmation notices; or

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

15 (3) Any notices returned to the election administrator after using the procedures provided in
16 subsection (2) must be followed by an appropriate confirmation notice that is a forwardable, first-class,
17 postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the
18 confirmation notice, the election administrator shall move the elector to the inactive list.

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

21

22 **NEW SECTION. Section 13. Agency-based registration.** (1) Qualified individuals must be given
23 the opportunity to register to vote when applying for or receiving services or assistance:

24 (a) at an agency that provides public assistance;

25 (b) at or through an agency that provides state-funded programs primarily engaged in providing
26 services to persons with disabilities; or

27 (c) at another agency designated by the secretary of state with the consent of the agency.

28 (2) Agency-based registration sites must:

29 (a) distribute application for voter registration forms with each application for services or
30 assistance; and

1 (b) assist an applicant in completing an application for voter registration form, unless the applicant
2 refuses assistance.

3 (3) The completed application for voter registration form must be transmitted by the agency to the
4 election administrator of the county of the elector's residence within the time period specified by 42 U.S.C.
5 1973gg, et seq.

6 (4) As used in this section, the following definitions apply:

7 (a) "Agency" means a state agency as defined in 2-4-102(1)(a) or an office of a political
8 subdivision.

9 (b) "Political subdivision" means a city, county, consolidated city-county government, or a town.
10

11 **NEW SECTION. Section 14. Reactivation of elector.** (1) The name of an elector must be moved
12 by an election administrator from the inactive list to the active list of a county if an elector meets the
13 requirements for registration provided in this chapter and:

14 (a) appears in order to vote in a federal election; or

15 (b) notifies the county election administrator of the elector's current residence, which must be in
16 that county.

17 (2) After an elector has complied with either subsection (1)(a) or (1)(b), the county election
18 administrator shall place the elector's name on the active voting list for that county.

19

20 **NEW SECTION. Section 15. Electors not voting in 1996 general election -- placement on inactive**
21 **voting list.** Election administrators shall place the name of electors who did not vote in the 1996 general
22 election on the inactive voting list provided for in [section 11].

23

24 **NEW SECTION. Section 16. Repealer.** Section 13-2-401, MCA, is repealed.

25

26 **NEW SECTION. Section 17. Codification instruction.** [Sections 11 through 14] are intended to
27 be codified as an integral part of Title 13, chapter 2, part 2, and the provisions of Title 13, chapter 2, part
28 2, apply to [sections 11 through 14].

29

30 **NEW SECTION. Section 18. Effective date.** [This act] is effective on passage and approval.

-END-