

SENATE BILL NO. 162

INTRODUCED BY R. WEBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS RELATED TO
5 ABSENTEE AND MAIL BALLOTS; REVISING THE TIMELINES FOR HANDLING ABSENTEE AND MAIL
6 BALLOTS; ALLOWING ELECTION ADMINISTRATORS TO VERIFY THE VALIDITY OF CERTAIN BALLOTS
7 UP TO 3 BUSINESS DAYS BEFORE ELECTION DAY; ALLOWING TABULATION OF CERTAIN BALLOTS TO
8 BEGIN 1 DAY BEFORE ELECTION DAY; ELIMINATING THE REQUIREMENT THAT BOARDS COUNTING
9 CERTAIN BALLOTS BE SEQUESTERED; PROVIDING RESTRICTIONS ON THE RELEASE OF VOTE
10 TALLIES; PROVIDING PENALTIES; AND AMENDING SECTIONS 13-13-232, 13-13-241, 13-15-101, 13-15-104,
11 13-15-105, 13-15-207, 13-19-106, AND 13-19-312, MCA."

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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Section 1. Section 13-13-232, MCA, is amended to read:

"13-13-232. Delivery of ballots and secrecy envelopes to election judges -- ballots to be rejected.

17 (1) If an absentee ballot is received prior to delivery of the official ballots to the election judges, the election
18 administrator shall process it according to 13-13-241 and then, unless the early preparation process in
19 13-13-241(7) was followed, deliver the unopened secrecy envelope to the judges at the same time that the ballots
20 are delivered.

21 (2) If an absentee ballot is received after the official ballots are delivered to the election judges but prior
22 to the close of the polls, the election administrator shall process it according to 13-13-241 and shall then
23 immediately deliver the unopened secrecy envelope to the judges.

24 (3) If the election administrator receives an absentee ballot for which an application or request was not
25 made or received as required by this part, the election administrator shall endorse upon the elector's envelope
26 the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must
27 be handled in the same manner as provided in 13-15-108(1)."
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Section 2. Section 13-13-241, MCA, is amended to read:

"13-13-241. Examination of absentee ballot signature envelopes -- deposit of absentee and



1 **unvoted ballots -- rulemaking.** (1) (a) Upon receipt of each absentee ballot signature envelope, an election
 2 administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on
 3 the elector's voter registration form with the signature on the signature envelope.

4 (b) If the elector is legally registered and the signature on the signature envelope matches the signature
 5 on the absentee ballot application or on the elector's voter registration form, the election administrator or an
 6 election judge shall handle the ballot as a regular ballot.

7 (c) (i) If the elector is provisionally registered and the signature on the signature envelope matches the
 8 signature on the absentee ballot application or on the elector's voter registration form, the election administrator
 9 or an election judge shall open the outer signature envelope and determine whether the elector's voter
 10 identification and eligibility information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted
 11 under 13-2-109 to legally register the elector.

12 (ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot
 13 must be handled as a regular ballot.

14 (iii) If voter identification or eligibility information was not enclosed or the information enclosed is
 15 insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

16 (2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall
 17 place the ballot in a secrecy envelope without examining the ballot.

18 (3) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and
 19 handled without being removed from their enclosure envelopes. If an unvoted party ballot is not received, the
 20 election administrator shall process the voted party ballot as if the unvoted party ballot had been received.

21 (4) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the
 22 absentee elector as provided in 13-13-245.

23 (5) If the signature on the absentee ballot signature envelope does not match the signature on the
 24 absentee ballot request form or on the elector's voter registration form or if there is no signature on the absentee
 25 ballot signature envelope, the election administrator shall notify the elector as provided in 13-13-245.

26 (6) If at any point there is a question concerning the validity of a particular ballot, the question must be
 27 resolved as provided in 13-13-245.

28 (7) (a) After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed
 29 pursuant to 13-13-245, then no sooner than ~~4~~ 3 business ~~day~~ days before election day, the election official may,
 30 ~~in the presence of a poll watcher,~~ open the secrecy envelope and place the ballot in the proper, secured ballot

1 box until tabulation occurs ~~on election day.~~ Tabulation AUTOMATIC TABULATION USING A VOTE-COUNTING MACHINE
 2 may not begin sooner than 1 day before election day. TABULATION USING A MANUAL COUNT MAY NOT BEGIN UNTIL
 3 ELECTION DAY.

4 (b) An election official may not conduct the process described in subsection (7)(a) on a Saturday or a
 5 Sunday.

6 (c) Ballot preparation as described in this subsection (7) is open to the public. Tabulation is open to the
 7 public as provided in 13-15-101.

8 (d) ACCESS TO AN ELECTRONIC SYSTEM CONTAINING EARLY TABULATION RESULTS IS LIMITED TO THE ELECTION
 9 ADMINISTRATOR AND THE ELECTION ADMINISTRATOR'S DESIGNEE. RESULTS MAY NOT BE RELEASED EXCEPT AS PROVIDED
 10 IN [SECTION 9].

11 (8) The election administrator shall safely and securely keep the absentee ballots in the election
 12 administrator's office until delivered by the election administrator to the election judges.

13 (9) The secretary of state shall develop administrative rules to establish the process and procedures to
 14 be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes
 15 during the early preparation period. The rules must include but are not limited to:

- 16 (a) the allowable distance from the observers to the judges and ballots;
- 17 (b) the security in the observation area;
- 18 (c) secrecy of votes during the preparation of the ballots; and
- 19 (d) security of the secured ballot boxes in storage until tabulation procedures begin ~~on election day.~~"

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21 **Section 3.** Section 13-15-101, MCA, is amended to read:

22 **"13-15-101. Votes to be publicly counted -- return forms.** (1) Any official vote count must be public
 23 and continue ~~without adjournment~~ until completed and the result is publicly declared.

24 (2) Immediately after all the ballots are counted by precinct, the election judges shall copy the total votes
 25 cast for each candidate and for and against each proposition on the return forms furnished by the election
 26 administrator.

27 (3) The election judges shall immediately display one of the return forms at the place of counting and
 28 return a copy to the election administrator. Both forms must be signed by all the election judges completing the
 29 count."

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1 **Section 4.** Section 13-15-104, MCA, is amended to read:

2 **"13-15-104. Absentee ballot counting board.** (1) The election administrator shall:

3 (a) give special instructions to any absentee ballot counting board appointed under 13-15-112 on the
4 proper procedures for counting the absentee ballots; and

5 (b) provide the forms and supplies necessary for the board to perform its duties.

6 (2) The absentee ballot counting board shall:

7 (a) be ~~sequestered~~ in a room separate from where ballots are being cast;

8 (b) at any time prior to the closing of the polls but ~~not before the polls open~~ no sooner than 1 day before
9 election day, start the count of the absentee votes cast; and

10 (c) follow the procedures outlined in 13-13-241 and 13-15-207 for the counting of the votes cast.

11 (3) An election judge or other individual having access to any results of early counting may not disclose
12 the information ~~while the polls are open and must remain sequestered~~ until the closing of the polls as provided
13 in [section 9].

14 (4) The absentee ballot counting board shall take the oath and sign the affirmation specified in
15 13-15-207(4)."

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17 **Section 5.** Section 13-15-105, MCA, is amended to read:

18 **"13-15-105. Notices relating to absentee ballot counting board.** (1) Not more than 10 days or less
19 than 2 days before an election, the election administrator shall broadcast on radio or television, as provided in
20 2-3-105 through 2-3-107, or publish in a newspaper of general circulation in the county a notice indicating the
21 method that will be used for counting absentee ballots and the place and time that the absentee ballots will be
22 counted ~~on election day~~.

23 (2) If the count will begin ~~while the polls are open~~ before the polls close, the notice required under
24 subsection (1) must inform the public that any person observing the procedures of the count ~~must be sequestered~~
25 ~~with the board until the polls are closed~~ and is required to take the oath provided in 13-15-207(4) and is subject
26 to [section 9]."

27

28 **Section 6.** Section 13-15-207, MCA, is amended to read:

29 **"13-15-207. Counting board procedures.** (1) After ballots have been prepared pursuant to 13-15-201,
30 the election administrator may arrange for the vote count to begin ~~prior to the close of the polls~~ no sooner than

1 1 day before election day, or immediately upon the closure of the polls, in the manner prescribed in this section.

2 (2) ~~(a)~~ When a count is conducted after the polls have closed, the counting board shall:

3 ~~(a)~~ meet at a place designated by the election administrator;

4 ~~(b)~~ ~~The board must be sequestered until the count is complete.~~

5 ~~(c)~~ ~~The board shall~~ continue counting until the votes cast for all candidates and issues are counted; and

6 ~~(d)~~~~(c)~~ ~~Votes must be counted~~ count votes as prescribed in 13-15-206.

7 (3) When votes are counted prior to the close of the polls:

8 (a) the election administrator shall make provisions for the delivery of voted ballots to the counting center
9 at any time prior to the closing of the polls;

10 (b) the board must be ~~sequestered~~ located in a room separate from the room where ballots are being
11 cast;

12 ~~(c)~~ ~~anyone observing the count must be sequestered with the board until the polls close;~~

13 ~~(d)~~~~(c)~~ the ballots may be processed and counted as they are received;

14 ~~(e)~~~~(d)~~ an election judge or other individual having access to early count results may not disclose that
15 information to the public ~~while the polls are open~~ until the polls close as provided in [section 9]; and

16 ~~(f)~~~~(e)~~ votes must be counted as prescribed in 13-15-206.

17 (4) (a) When votes are being counted prior to the close of the polls, in addition to the official oath taken
18 and subscribed to by the election judges, the members of the counting board AND OBSERVERS shall complete and
19 sign the following affirmation: "I, _____, will not discuss the results of the early counting of votes ~~while the polls~~
20 ~~are open~~ at any time prior to the closing of the polls on election day."

21 (b) The election administrator or chief election judge shall witness and sign the affirmation in subsection
22 (4)(a)."

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24 **Section 7.** Section 13-19-106, MCA, is amended to read:

25 **"13-19-106. General requirements for mail ballot election.** A mail ballot election must be conducted
26 substantially as follows:

27 (1) Subject to 13-12-202, official mail ballots must be prepared and all other initial procedures followed
28 as provided by law, except that mail ballots must be paper ballots and are not required to have stubs.

29 (2) An official ballot must be mailed to every qualified elector of the political subdivision conducting the
30 election.

1 (3) Each signature envelope must contain a form that is the same as the form for absentee ballot
 2 signature envelopes and that is prescribed by the secretary of state for the elector to verify the accuracy of the
 3 elector's address or notify the election administrator of the elector's correct mailing address and to return the
 4 corrected address with the voted ballot in the manner provided by 13-19-306.

5 (4) The elector shall mark the ballot and place it in a secrecy envelope.

6 (5) (a) The elector shall then place the secrecy envelope containing the elector's ballot in a signature
 7 envelope and mail it or deliver it in person to a place of deposit designated by the election administrator.

8 (b) Except as provided in 13-21-206 and 13-21-226, the voted ballot must be received before 8 p.m. on
 9 election day.

10 (6) Election officials shall first qualify the voted ballot by examining the signature envelope to determine
 11 whether it is submitted by a qualified elector who has not previously voted in the election.

12 (7) If the voted ballot qualifies and is otherwise valid, officials shall then open the signature envelope and
 13 remove the secrecy envelope, which must be deposited unopened in an official ballot box pursuant to the timeline
 14 specified in 13-13-241(7).

15 (8) Except as provided in 13-19-312, ~~after the close of voting on election day~~, voted ballots must be
 16 counted and canvassed as provided in Title 13, chapter 15."

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18 **Section 8.** Section 13-19-312, MCA, is amended to read:

19 **"13-19-312. Preparation for count and counting procedure.** (1) The preparation for counting ballots
 20 must be as provided in 13-15-201.

21 (2) Except as provided in subsection (3), after the close of voting on election day, the counting board
 22 appointed pursuant to 13-15-112 shall:

23 (a) open the official ballot boxes;

24 (b) if the process authorized under 13-13-241(7) was not used, open each secrecy envelope, removing
 25 the voted ballot; and

26 (c) proceed to count the votes as provided in Title 13, chapter 15.

27 (3) ~~On election day, the~~ The election administrator may begin the procedures described in subsection
 28 (2) ~~before the polls close~~ no sooner than 1 day before election day if the election administrator complies with the
 29 procedures described in 13-15-207(3)."
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