

1 HOUSE BILL NO. 613
2 INTRODUCED BY S. STEWART PEREGOY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION PROCEDURES ON INDIAN
5 RESERVATIONS; REQUIRING AT LEAST ~~TWO PERMANENT ONE~~ SATELLITE OR ALTERNATIVE
6 ELECTION OFFICES SELECTED BY EACH FEDERALLY RECOGNIZED INDIAN TRIBE OFFICE ON EACH
7 RESERVATION; REQUIRING PRECINCT POLLING PLACE NOTICES TO INCLUDE LOCATIONS ON
8 INDIAN RESERVATIONS; ~~AUTHORIZING THE USE OF A NONTRADITIONAL ADDRESS AS AN~~
9 ~~ELECTOR'S RESIDENTIAL ADDRESS;~~ PROVIDING LEGISLATIVE INTENT; REVISING DUTIES OF THE
10 STATE-TRIBAL RELATIONS COMMITTEE; REQUIRING CONSIDERATION OF ADDITIONAL PLACES OF
11 DEPOSIT FOR BALLOTS WITHIN RESERVATION BOUNDARIES; PROVIDING AN APPROPRIATION;
12 AMENDING SECTIONS 5-5-229, 13-3-105, 13-13-114, 13-13-201, AND 13-19-307, MCA; AND PROVIDING A
13 DELAYED EFFECTIVE DATE."

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

16
17 NEW SECTION. Section 1. ~~Permanent reservation~~ RESERVATION satellite OR ALTERNATIVE election
18 offices -- LEGISLATIVE INTENT -- MONITORING. (1) ~~For~~ EXCEPT AS PROVIDED IN SUBSECTION (6) AND SUBJECT TO THE
19 PROVISIONS OF SUBSECTION (8), ~~FOR~~ the purposes of state and federal elections, ~~the tribal government of a~~
20 ~~federally recognized Indian tribe may select at least two satellite election offices within the boundaries of the~~
21 ~~Indian reservation, or if the tribe does not have a reservation, in locations that would best serve the members of~~
22 ~~the tribe~~ EACH COUNTY WITH A LAND BASE THAT FALLS WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION
23 SHALL OPERATE AT LEAST ONE SATELLITE ELECTION OFFICE OR ALTERNATIVE ELECTION OFFICE ON THE RESERVATION AT
24 A LOCATION THAT MEETS THE REQUIREMENTS OF SUBSECTION (4) AND IS APPROVED BY THE TRIBAL GOVERNING BODY
25 OF THE RESERVATION.

26 (2) ~~The satellite election offices required~~ A SATELLITE ELECTION OFFICE OR ALTERNATIVE ELECTION OFFICE
27 ESTABLISHED under this section must be open ~~as soon as mail ballots are sent out by the election administrator~~
28 ~~and must remain open until the polls are closed on~~ AT LEAST 30 DAYS PRIOR TO election day. The COUNTY AND

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1 tribal government ~~may set~~ SHALL AGREE IN WRITING ON the days and hours of operation OF THE OFFICE during the
2 30-DAY period ~~in which the satellite election offices are open.~~

3 (3) A satellite ELECTION OFFICE OR ALTERNATIVE election office operated under this section must
4 provide services equivalent to the services provided at the main election office of the county, including but not
5 limited to access to replacement ballots, in-person absentee voting, and late voter registration.

6 ~~(4) A satellite election~~ THE office is ALSO responsible for the collection of ballots from places of deposit
7 designated pursuant to 13-19-307(7).

8 (4) (A) THE LOCATION OF A SATELLITE ELECTION OFFICE OR ALTERNATIVE ELECTION OFFICE ESTABLISHED
9 PURSUANT TO THIS SECTION MUST:

10 (I) BE FURNISHED AT NO CHARGE EXCEPT AS PROVIDED IN 13-3-105(4);

11 (II) COMPLY WITH THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C. 12101, ET SEQ.;

12 (III) HAVE TELEPHONE COVERAGE AND A SECURE WIRED INTERNET CONNECTION; AND

13 (IV) BE EQUIPPED WITH ADEQUATE SECURITY FEATURES INCLUDING A DOOR THAT CAN BE SECURELY LOCKED
14 AND ACCESSED ONLY BY THE ELECTION ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE.

15 (B) IF THE LOCATION IS A TRIBAL GOVERNMENT BUILDING, THE AGREEMENT BETWEEN THE COUNTY AND TRIBAL
16 GOVERNMENT MUST INDEMNIFY THE COUNTY FOR ANY PERSONAL INJURY SUFFERED BY AN INDIVIDUAL DUE TO THE
17 CONDITION OF THE PREMISES.

18 (5) IT IS THE LEGISLATURE'S INTENT THAT THE LOCATION OF A SATELLITE ELECTION OFFICE OR ALTERNATIVE
19 ELECTION OFFICE ESTABLISHED PURSUANT TO THIS SECTION BE CONSISTENT FROM ELECTION TO ELECTION. HOWEVER,
20 A NEW LOCATION OR DAYS OR HOURS OF ITS OPERATION MAY BE ESTABLISHED IF THE COUNTY OR TRIBAL GOVERNMENT
21 NOTIFIES THE OTHER PARTY IN WRITING BY JANUARY 1 PRIOR TO THE NEXT STATE OR FEDERAL ELECTION OF INTEREST
22 IN A CHANGE AND THE PARTIES CAN AGREE ON THE NEW TERMS BY JANUARY 31. IF CONSENT CANNOT BE REACHED,
23 THEN THE PREVIOUS TERMS REMAIN IN EFFECT.

24 (6) A COUNTY AND TRIBAL GOVERNMENT MAY AGREE THAT BECAUSE OF THE SPECIFIC CIRCUMSTANCES OF
25 THE OVERLAPPING AREAS OF A COUNTY AND INDIAN RESERVATION THAT ESTABLISHMENT OF A SATELLITE ELECTION
26 OFFICE OR ALTERNATIVE ELECTION OFFICE IN THAT COUNTY IS UNWARRANTED.

27 (7) A COUNTY AND A TRIBAL GOVERNMENT MAY AGREE TO SHARE COSTS FOR THE ESTABLISHMENT AND
28 OPERATION OF A SATELLITE ELECTION OFFICE OR ALTERNATIVE ELECTION OFFICE.

1 (8) The legislature does not intend to abrogate any existing settlement agreement concerning the
 2 availability and location of alternative election administration offices on an Indian reservation in effect on [the
 3 effective date of this act]. To the extent the provisions of this section provide duties or requirements that are
 4 less onerous than those of a settlement agreement to which this state, the secretary of state, or a county is a
 5 party, the parties to the settlement agreement are not relieved of the requirements or duties specified under the
 6 agreement.

7 (8)(9) THE STATE-TRIBAL RELATIONS COMMITTEE ESTABLISHED IN 5-5-229 SHALL MONITOR IMPLEMENTATION
 8 OF THE PROVISIONS OF THIS SECTION AND ISSUE FINDINGS AND RECOMMENDATIONS IN ACCORDANCE WITH 5-11-210 BY
 9 SEPTEMBER 15 OF EACH YEAR PRECEDING THE CONVENING OF A REGULAR LEGISLATIVE SESSION CONCERNING ANY
 10 NEEDED CHANGES TO THIS SECTION. THE STATE-TRIBAL RELATIONS COMMITTEE SHALL SHARE ITS FINDINGS AND
 11 RECOMMENDATIONS WITH THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE.

12 (9)(10) AS USED IN THIS SECTION:

13 (A) "ALTERNATIVE ELECTION OFFICE" MEANS AN OFFICE THAT IS NOT EQUIPPED WITH A SEQUENTIAL
 14 BALLOTING MACHINE; AND

15 (B) "SATELLITE ELECTION OFFICE" MEANS AN OFFICE THAT IS EQUIPPED WITH A SEQUENTIAL BALLOTING
 16 MACHINE.

18 NEW SECTION. Section 2. Legislative intent -- negotiating in good faith. It is the legislature's
 19 intent that all negotiations entered into by a county and tribal government to meet the requirements of [section
 20 1] and 13-19-307(7) be conducted in good faith using the guiding principles provided in 2-15-142.

22 Section 3. SECTION 5-5-229, MCA, IS AMENDED TO READ:

23 **"5-5-229. State-tribal relations committee.** There is a state-tribal relations committee. The
 24 committee is treated as an interim committee for the purposes of 5-5-211 through 5-5-214. The committee
 25 shall:

- 26 (1) act as a liaison with tribal governments;
- 27 (2) encourage state-tribal and local government-tribal cooperation;
- 28 (3) conduct interim studies as assigned pursuant to 5-5-217;

1 (4) monitor implementation of [section 1]; and
2 (4)(5) report its activities, findings, recommendations, and any proposed legislation as provided in 5-
3 11-210."

4

5 **Section 4.** Section 13-3-105, MCA, is amended to read:

6 **"13-3-105. Designation of polling place.** (1) The county governing body shall designate the polling
7 place for each precinct no later than 30 days before a primary election. The same polling place must be used
8 for both the primary and general election if at all possible. Changes may be made by the governing body in
9 designated polling places up to 10 days before an election if a designated polling place is not available. Polling
10 places may be located outside the boundaries of a precinct.

11 (2) Not more than 10 days or less than 2 days before an election, the election administrator shall
12 publish in a newspaper of general circulation in the county a statement of the locations of the precinct polling
13 places. The notice must also include the location of any precinct polling places located within an Indian
14 reservation's boundaries. The election administrator shall include in the published notice the accessibility
15 designation for each polling place according to the classification in 13-3-207. Notice may also be given as
16 provided in 2-3-105 through 2-3-107.

17 (3) An election administrator may make changes in the location of a polling place if an emergency
18 occurs 10 days or less before an election. Notice must be posted at both the old and new polling places, and
19 other notice may be given by whatever means available. If the old polling place being relocated is within the
20 boundaries of an Indian reservation, the new location must also be located on the reservation.

21 (4) (a) Any building may be used as a polling place. The building must be furnished at no charge as
22 long as no structural changes are required in order to use the building as a polling place.

23 (b) If the building regularly used as a designated polling place is not available for an election because
24 of an unforeseen or temporary circumstance and no other suitable building is available free of charge, the
25 county may pay for use of a building as a temporary polling place for that election provided that the building
26 meets the polling place standards under this chapter. If a county pays for the use of a building as a temporary
27 polling place because of an unforeseen or temporary circumstance, the county shall provide with its regular
28 report on election costs to the secretary of state any costs incurred for use of a building pursuant to this

1 subsection (4)(b).

2 (5) The exterior of the voting systems, or of the booths in which they are placed, and every part of the
3 polling place must be in plain view of the election judges."

4

5 **Section 5.** Section 13-13-114, MCA, is amended to read:

6 **"13-13-114. Voter identification and marking precinct register book before elector votes --**

7 **provisional voting.** (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to
8 an election judge a current photo identification showing the elector's name. If the elector does not present photo
9 identification, including but not limited to a valid driver's license, a school district or postsecondary education
10 photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement,
11 paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other
12 government document that shows the elector's name and current address.

13 (b) A tribal photo identification is not required to include a residential address or an expiration date to
14 be considered valid under this section.

15 (c) An elector may use a nontraditional address as a current address as long as the nontraditional
16 address contains enough detail to allow the elector to be assigned to the proper precinct.

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

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

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

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

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

4 ~~(4) (a) A federally recognized Indian tribe may designate one or more tribal government buildings to~~
5 ~~serve as a residential address, mailing address, or both, for electors living within the boundaries of an Indian~~
6 ~~reservation or on Indian lands.~~

7 ~~(b) An elector may not use a tribally designated building as the elector's residential address if the~~
8 ~~building is in a different precinct from the elector's actual location of residence.~~

9 ~~(5) For the purposes of this section:~~

10 ~~(a) "Nontraditional address" means an address that consists of a narrative description of the location~~
11 ~~of the elector's residence and applies when a traditional address has not been assigned or affixed to the~~
12 ~~elector's residence or when an elector resides on an Indian reservation or Indian lands.~~

13 ~~(b) "Traditional address" means an address that consists of a street number street name and a city or~~
14 ~~town as assigned by a local government. The traditional address may include an apartment number or unit~~
15 ~~number and serves to identify the parcel or building of residence and the particular unit if the building is a~~
16 ~~multiunit residence."~~

17
18 **Section 6.** Section 13-13-201, MCA, is amended to read:

19 **"13-13-201. Voting by absentee ballot -- procedures.** (1) A legally registered elector or provisionally
20 registered elector is entitled to vote by absentee ballot as provided for in this part.

21 (2) The elector may vote absentee by:

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

23 (b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

24 (c) placing the secrecy envelope containing one ballot for each election being held in the signature
25 envelope;

26 (d) executing the affirmation printed on the signature envelope; and

27 (e) returning the signature envelope with all appropriate enclosures by regular mail, postage paid, or
28 by delivering it to:

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- 1 (i) the election office;
- 2 (ii) a polling place within the elector's county;
- 3 (iii) pursuant to 13-13-229, the absentee election board or an authorized election official; or
- 4 (iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within
- 5 the elector's county.

6 (3) Except as provided in 13-21-206 and 13-21-226, in order for the ballot to be counted, each elector
7 shall return it in a manner that ensures the ballot is received prior to 8 p.m. on election day.

8 (4) (a) A provisionally registered elector may also enclose in the outer signature envelope a copy of
9 the elector's photo identification showing the elector's name. The photo identification may be but is not limited
10 to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo
11 identification. If the provisionally registered elector does not enclose a photo identification, the elector may
12 enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration
13 issued pursuant to 13-2-207, government check, or other government document that shows the elector's name
14 and current address.

15 (b) A tribal photo identification is not required to include a residential address or an expiration date to
16 be considered valid under this section.

17 ~~(c) An elector may use a nontraditional address as a current address as long as the nontraditional~~
18 ~~address contains enough detail to allow the elector to be assigned to the proper precinct.~~

19 ~~(5) For the purposes of this section:~~

20 ~~(a) "Nontraditional address" means an address that consists of a narrative description of the location~~
21 ~~of the elector's residence and applies when a traditional address has not been assigned or affixed to the~~
22 ~~elector's residence or when an elector resides on an Indian reservation or Indian lands.~~

23 ~~(b) "Traditional address" means an address that consists of a street number, street name, and a city~~
24 ~~or town as assigned by a local government. The traditional address may include an apartment number or unit~~
25 ~~number and serves to identify the parcel or building of residence and the particular unit if the building is a~~
26 ~~multiunit residence."~~

27

28 **Section 7.** Section 13-19-307, MCA, is amended to read:

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1 **"13-19-307. Places of deposit.** (1) (a) The election administrator shall designate the election
2 administrator's office and may designate one or more places in the political subdivision in which the election is
3 being conducted as places of deposit where ballots may be returned in person by the elector or the elector's
4 agent or designee.

5 (b) If the election administrator's office is not accessible pursuant to 13-3-205, the election
6 administrator shall designate at least one accessible place of deposit.

7 (2) Prior to election day, ballots may be returned to any designated place of deposit during the days
8 and times set by the election administrator and within the regular business hours of the location.

9 (3) On election day, each location designated as a place of deposit must be open as provided in 13-1-
10 106, and ballots may be returned during those hours.

11 (4) The election administrator may designate certain locations as election day places of deposit, and
12 any designated location functions as a place of deposit only on election day.

13 (5) Each place of deposit must be staffed by at least two election officials who, except for election
14 judges serving in elections under Title 20, chapter 20, are selected in the same manner as provided for the
15 selection of election judges in 13-4-102.

16 (6) The election administrator shall provide each designated place of deposit with an official ballot
17 transport box secured as provided by law.

18 ~~(7) An Indian reservation must have at least one place of deposit for each town that is more than 10~~
19 ~~miles away from a permanent satellite election office designated under [section 1]. The tribal government shall~~
20 ~~choose the location for each place of deposit required under this subsection.~~

21 (7) FOR EACH STATE AND FEDERAL ELECTION, THE ELECTION ADMINISTRATOR SHALL CONSULT WITH THE
22 TRIBAL GOVERNING BODY OF AN INDIAN RESERVATION TO DETERMINE WHETHER ADDITIONAL PLACES OF DEPOSIT ARE
23 NECESSARY TO BE LOCATED WITHIN THE EXTERIOR BOUNDARIES OF A RESERVATION BASED ON THE PROXIMITY OF
24 ELECTORS RESIDING WITHIN THE RESERVATION BOUNDARIES TO THE ELECTION ADMINISTRATOR'S OFFICE OR A
25 SATELLITE ELECTION OFFICE OR ALTERNATIVE ELECTION OFFICE ESTABLISHED PURSUANT TO [SECTION 1]."

26
27 NEW SECTION. Section 8. Notification to tribal governments. The secretary of state shall send a
28 copy of [this act] to each federally recognized tribal government in Montana.

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NEW SECTION. Section 9. APPROPRIATION. FOR THE BIENNIUM BEGINNING JULY 1, 2021, THERE IS APPROPRIATED \$5,000 FROM THE STATE GENERAL FUND TO THE SECRETARY OF STATE'S OFFICE TO ASSIST COUNTIES WITH THE IMPLEMENTATION OF [THIS ACT].

NEW SECTION. Section 10. Codification instruction. ~~[Section 1]~~ ~~is~~ ~~[Sections 1 and 2]~~ are intended to be codified as an integral part of Title 13, chapter 3, and the provisions of Title 13, chapter 3, apply to ~~[section 1]~~ ~~[sections 1 and 2]~~.

NEW SECTION. Section 11. Effective date. [This act] is effective January 1, 2022.

- END -