



Montana Legislative Services Division
Legal Services Office

TO: State Administration and Veterans' Affairs Interim Committee

FROM: K. Virginia Aldrich

DATE: July 22, 2022

RE: Legislative Administrative Rule Review Report

Pursuant to 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for reviewing administrative rules within its jurisdiction. Staff for the State Administration and Veterans' Affairs Interim Committee has prepared this report for informational purposes only. This report does not represent any action or opinion of the State Administration and Veterans' Affairs Interim Committee and does not preclude additional action that may be taken by the State Administration and Veterans' Affairs Interim Committee pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER: 44-2-259

AGENCY/BOARD: Secretary of State

RULE CLASSIFICATION: (e.g., substantive/interpretive/emergency/temporary): Substantive

SUBJECT: Clarification of Timing of Certain Activities of Election Administrators

NOTICE DESCRIPTION: (e.g., proposal notice/adoption notice): Notice of Public Hearing on Proposed Adoption

SUMMARY OF RULE(S):

The Secretary of State proposes to amend three rules relating to the timing of certain election administrator activities.

The Secretary of State proposes to amend one rule concerning ballots transmitted electronically by a disabled elector. The proposed amendment provides that an elector administrator must transcribe the returned ballots "[n]o sooner than the time permitted for preparation of ballots." By statute, certain ballot preparations begin no sooner than 3 days before election day, although an exception is provided, limiting the processes in certain small counties to 1 day before election day. This rule would apply those statutory timelines concerning absentee ballot preparation to electronically transmitted ballots by disabled electors. Staff has requested that the Secretary of State clarify whether the proposed amendment intends to apply also to the timeline for the small county limited exception because of ambiguity in the cross reference. The Secretary of State has agreed and will update the cross reference appropriately so that the small county exception is included.

The Secretary of State proposes to amend one rule concerning the procedures for the preparation

of absentee ballots. The proposed amendments update references to the early preparation and counting of ballots beginning as specified in statute, rather than the preparation beginning 1 business day before election day and counting beginning on election day. The previous provisions concerning preparation and counting were superseded by changes in Chapter 229 (2019) that revised the timelines for handling and tabulating absentee and mail ballots. The proposed amendments also updated appropriate cross references.

Likewise, the Secretary of State proposes to amend one rule concerning the electronic transmission of voting materials to covered voters to state that the election administrator shall have the returned ballots transcribed no sooner than the time permitted for preparation of ballots as provided in statute.

NOTES: A public hearing will be held at 10 a.m. on August 12, 2022, in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana. The public comment period ends on August 19, 2022.

FULL TEXT OF NOTICE: The full text of the original proposal notice and the amended proposal may be found online at https://rules.mt.gov/gateway/Cycle_Home.asp?CID=3523.