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As of: June 18, 2008 (1:32pm)

LC0060

**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs

Interim Committee

A Bill for an Act entitled: "An Act creating a mail ballot pilot project; amending sections 13-19-104, 13-19-303, and 13-19-307, MCA; providing an immediate effective date; and providing a termination date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. Section 1. Purpose -- legislative intent. (1)

The legislature recognizes the importance of ensuring that elections are held in a manner that is not only fair and efficient, but also in a manner that preserves an individual's right to vote and that encourages all eligible voters to participate in the election process. The legislature recognizes that:

(a) an increasing number of Montanans are voting by mail through the absentee election procedures that now allow no-excuse and permanent absentee voting;

(b) county election administrators face an increasingly complicated task in conducting elections because of the need to maintain polling places while also accommodating the large numbers of people who vote by absentee ballot, making elections more time-consuming, complex, and costly to administer;

(c) mail ballot elections have demonstrated the potential in Montana and elsewhere of increasing turnout among registered voters; and

(d) valid concerns exist about whether greater use of mail ballot elections may discourage turnout among some types of voters or make it more difficult for some Montanans to vote or register to vote.

(2) The purpose of [sections 1 through 5] is to allow for a pilot project that requires the use of mail ballot elections for all elections conducted by a county election administrator and that is limited in duration and location. The pilot project is intended to test the use of mail ballot elections in select counties and collect statistical and other information to allow the legislature to evaluate the effects of holding all elections by mail before deciding whether to authorize the use of mail ballot elections on a wider scale.

NEW SECTION. **Section 2. Participating counties.** The following counties shall participate in the mail ballot pilot project provided for in [sections 1 through 5]: Big Horn, Blaine, Carbon, Carter, Gallatin, Jefferson, Lake, Lewis and Clark, Missoula, Phillips, Pondera, Ravalli, Richland, Rosebud, Sanders, Sweet Grass, and Yellowstone.

NEW SECTION. **Section 3. Elections affected.** (1) All elections conducted by a county election administrator in a participating county must be conducted by mail during 2009 and

2010 under the procedures established in Title 13, chapter 19, except as required in [sections 1 through 5].

(2) An election conducted by a person other than the county election administrator in a participating county may be conducted as a polling place election or as a mail ballot election conducted under the provisions of Title 13, chapter 19.

NEW SECTION. **Section 4. Places of deposit.** (1) The election administrator of each participating county shall designate places of deposit where ballots may be returned in person by the elector or the elector's agent or designee, as provided in 13-19-307.

(2) (a) For a regularly scheduled or special federal, state, or county election, the election administrator shall designate the election administrator's office as a place of deposit and shall designate additional places of deposit as follows:

(i) at least three other places of deposit in a county with more than 6,000 active registered electors;

(ii) at least two other places of deposit in a county with more than 3,000 but fewer than 6,000 active registered electors;
or

(iii) at least one other place of deposit in a county with fewer than 3,000 active registered electors.

(b) The election administrator in a county that had fewer polling places certified to the secretary of state for the November 2008 election than the number of places of deposit required under the formula in subsection (2) (a) may designate a

number of places of deposit that is equal to the number of polling places certified in 2008.

(3) For all other elections, the election administrator shall designate the election administrator's office and may designate one or more places in the political subdivision in which the election is being conducted as places of deposit.

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

(5) For any federal or state election or for a county election held in conjunction with a federal or state election, an accessible voting machine must be made available to electors at each place of deposit.

(6) Each place of deposit must be staffed by at least two election officials who are selected as provided for election judges in 13-4-102.

NEW SECTION. **Section 5. Information collection required -- reporting.** (1) Counties participating in the pilot project shall collect the following information for each election held by mail:

- (a) the number of ballots that were:
 - (i) mailed to electors;
 - (ii) voted and returned by mail or to a place of deposit by an elector;
 - (iii) returned as undeliverable;
 - (iv) voted or handled as a provisional ballot;
 - (v) considered invalid pursuant to 13-19-311; and

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(vi) received after election day;

(b) the voter turnout in precincts in which:

(i) Indians make up more than 50% of the population; or

(ii) there are significant numbers of the following

transitional populations:

(A) minorities;

(B) students;

(C) single or divorced persons; and

(D) low-income persons;

(c) for ballots that were returned as undeliverable, the number of ballots:

(i) for which a forwarding address was provided;

(ii) that were delivered after the forwarding address was provided; and

(iii) for which no forwarding address was found;

(d) for electors who updated their registration information or reactivated their registration after ballots were mailed, the number who did so because they:

(i) contacted the election administrator's office after they failed to receive the original ballot mailing;

(ii) had moved and had received a notice from the county election administrator informing them of the need to update their registration information;

(iii) reactivated their registration before election day; and

(iv) reactivated their registration on election day;

(e) the date on which the ballots were mailed to electors

and the date of the election day;

(f) the date on which the voter list was updated pursuant to 13-2-220 and the number of electors who reactivated their registrations during this process;

(g) the procedure used to verify signatures;

(j) for each place of deposit, the:

(i) number, location, and hours of operation;

(ii) number of ballots returned or voted; and

(iii) number and usage of accessible voting machines;

(i) For each election, the costs of:

(i) printing ballots and other supplies;

(ii) programming accessible voting machines;

(iii) postage for mailing ballots and other required

notices;

(iv) the vote counting system; and

(iv) personnel;

(j) the number of election judges or temporary election staff hired for each election;

(k) the methods used to notify voters that a mail ballot election was being conducted and the steps that they could take to update their mailing addresses or voter registration, reactivate their registration, or register for the election; and

(l) the voting eligible population, as determined from U.S. census bureau figures.

(2) (a) The information required in subsection (1) (b) (ii) must be collected only to the extent that the precincts are identified at least 40 days in advance of the election by groups

that advocate for the listed populations.

(b) A group that identifies precincts pursuant to this subsection (2) shall provide to the county election administrator and the secretary of state's office the precinct number and the documentation used to determine that the precinct meets the criteria for data collection.

(3) Each county participating in the pilot project shall provide the information required under this section to:

(a) the secretary of state on or before January 15, 2010, for elections held in 2009 and on or before January 15, 2011, for elections held in 2010;

(b) the state administration and veterans' affairs interim committee before September 15, 2010, for elections held through June 2010; and

(c) the legislature, as provided in 5-11-210.

Section 6. Section 13-19-104, MCA, is amended to read:

"13-19-104. Mail ballot elections not mandatory -- when authorized -- when prohibited -- when county election administrator conducts. (1) Conducting elections by mail ballot is only one option available to local officials, and this chapter does not mandate that the procedure be used.

(2) Except as provided in subsection (3), any election may be conducted by mail ballot.

(3) ~~The Except as provided in [sections 1 through 5], the~~ following elections may not be conducted by mail ballot:

(a) a regularly scheduled federal, state, or county

election;

(b) a special federal or state election, unless authorized by the legislature; or

(c) a regularly scheduled or special election when another election in the political subdivision is taking place at the polls on the same day.

(4) (a) Except as provided in subsection (4)(b), if more than one mail ballot election is being conducted in the political subdivision on the same day, the county election administrator shall conduct the elections.

(b) The requirement that a county election administrator shall conduct more than one mail ballot election on the same day does not apply to a mail ballot school bond election conducted by the trustees of any two or more school districts that have unified pursuant to 20-6-312 or that have created a joint board of trustees pursuant to 20-3-361."

{ *Internal References to 13-19-104:*
13-19-102x 13-19-203x }

Section 7. Section 13-19-303, MCA, is amended to read:

"13-19-303. Voting by elector when absent from place of residence during conduct of election. (1) A qualified elector who will be absent from the county during the time the election is being conducted may:

(a) vote in person in the election administrator's office as soon as ballots are available and until noon the day before the ballots are scheduled to be mailed; or

(b) make a written request, signed by the applicant and addressed to the election administrator, that the ballot be mailed to an address other than that which appears on the registration card. Written requests must be accepted until noon the day before the ballots are scheduled to be mailed.

(2) Ballots mailed to electors pursuant to this section must be mailed the same day that all other ballots are mailed, except that a ballot requested pursuant to Title 13, chapter 21, may be sent to the elector as soon as the ballot is printed."

{*Internal References to 13-19-303: None.*}

Section 8. Section 13-19-307, MCA, is amended to read:

"13-19-307. Places of deposit. (1) ~~The~~ Except as provided in [section 4], the election administrator shall designate ~~his~~ the election administrator's office and may designate one or more places in the political subdivision in which the election is being conducted as places of deposit where ballots may be returned in person by the elector.

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

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

(4) The election administrator may designate certain locations as election day places of deposit, and any location so

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designated shall function as a place of deposit only on election day.

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

{*Internal References to 13-19-307:
13-19-306x*}

NEW SECTION. **Section 9. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 10. {standard} Termination.** [This act] terminates January 31, 2011.

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