

SENATE BILL NO. 101

INTRODUCED BY K. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PRIMARY ABSENTEE BALLOTS; ELIMINATING THE REQUIREMENT FOR AN ABSENTEE VOTER TO RETURN AN UNVOTED PARTY BALLOT; AND AMENDING SECTIONS 13-13-214, 13-13-241, AND 13-19-205, MCA."

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

**Section 1.** Section 13-13-214, MCA, is amended to read:

**"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1)(a) Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary in a manner that conforms to postal regulations to require the return rather than forwarding of ballots.

(b) The election administrator shall mail the ballots in a manner that conforms to the deadlines established for ballot availability in 13-13-205.

(c) The election administrator may deliver a ballot in person to an individual other than the elector if:

(i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;

(ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the ballot;

(iii) the election administrator believes that the individual receiving the ballot is the designated person; and

(iv) the designated person has not previously picked up ballots for four other electors.

(2) The election administrator shall enclose with the ballots:

(a) a secrecy envelope, free of any marks that would identify the voter; and

(b) a signature envelope for the return of the ~~ballots~~ ballot. The signature envelope must be self-addressed by the election administrator and an affirmation in the form prescribed by the secretary of state

1 must be printed on the back of the signature envelope.

2 (3) The election administrator shall ensure that the ballots provided to an absentee elector are marked  
3 as provided in 13-13-116 and shall remove the stubs from the ballots, keeping the stubs in numerical order with  
4 the application for absentee ballots, if applicable, or in a precinct envelope or container for that purpose.

5 ~~———— (4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose an  
6 extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way  
7 so that it can be identified as being used by any one elector.~~

8 ~~(5)~~(4) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must  
9 include ~~use of the envelope for~~ disposal instructions for unvoted ballots. The instructions must include information  
10 concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions  
11 must include information regarding use of the secrecy envelope and use of the signature envelope. The election  
12 administrator shall include a voter information pamphlet with the instructions if:

13 (a) a statewide ballot issue appears on the ballot mailed to the elector; and

14 (b) the elector requests a voter information pamphlet."

15

16 **Section 2.** Section 13-13-241, MCA, is amended to read:

17 **"13-13-241. Examination of absentee ballot signature envelopes -- deposit of absentee and  
18 unvoted ballots -- rulemaking.** (1) (a) Upon receipt of each absentee ballot signature envelope, an election  
19 administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on  
20 the elector's voter registration form with the signature on the signature envelope.

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

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

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

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

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

5 (3) In a primary election, if unvoted party ballots are returned by a voter, they must be separated from  
6 ~~the secrecy envelopes and handled without being removed from their enclosure envelopes. If an unvoted party~~  
7 ~~ballot is not received, the election administrator shall process the voted party ballot as if the unvoted party ballot~~  
8 ~~had been received~~ and handled pursuant to 13-1-303 and 13-12-202.

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

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

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

16 (7) After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed  
17 pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official may, in the  
18 presence of a poll watcher, open the secrecy envelope and place the ballot in the proper, secured ballot box until  
19 tabulation occurs on election day.

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

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

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

29

30 **Section 3.** Section 13-19-205, MCA, is amended to read:

1           **"13-19-205. Written plan for conduct of election -- amendments -- approval procedures.** (1) The  
2 election administrator shall prepare a written plan for the conduct of each election to be conducted by mail and  
3 shall submit the plan to the secretary of state in a manner that ensures that it is received at least 60 days prior  
4 to the date set for the election. There must be a separate plan for each type of election held even if held on the  
5 same day.

6           (2) The written plan must include:

7           (a) a timetable for the election; and

8           (b) sample written instructions that will be sent to the electors. The instructions must include but are not  
9 limited to:

10           (i) information on the estimated amount of postage required to return the ballot;

11           (ii) (A) the location of the places of deposit and the days and times when ballots may be returned to the  
12 places of deposit, if the information is available; or

13           (B) if the information on location and hours of places of deposit is not available, a section that will allow  
14 the information to be added before the instructions are mailed to electors; and

15           (iii) any applicable instructions specified under ~~13-13-214(5)~~ 13-13-214(4).

16           (3) The plan may be amended by the election administrator at any time prior to the 35th day before  
17 election day by notifying the secretary of state in writing of any changes.

18           (4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the  
19 secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

20           (5) When the written plan and any amendments have been approved, the election administrator shall  
21 proceed to conduct the election according to the approved plan unless the election is canceled for any reason  
22 provided by law."

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