



CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 225  
2 INTRODUCED BY Phillips  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING ELECTION  
5 ADMINISTRATORS TO ALLOW REGISTRATION AND VOTING BY FACSIMILE  
6 TRANSMISSION IF FACSIMILE FACILITIES ARE AVAILABLE;  
7 REQUIRING THE SECRETARY OF STATE TO ADOPT RULES; REQUIRING  
8 THE SECRETARY OF STATE'S ELECTION ADVISORY COUNCIL TO ASSIST  
9 THE SECRETARY IN THE ADOPTION OF THE RULES; REQUIRING THE  
10 SECRETARY OF STATE TO REPORT TO THE LEGISLATURE; AND  
11 PROVIDING EFFECTIVE DATES."  
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13 WHEREAS, there is increasing interest on the part of  
14 both state and federal agencies in the use of facsimile  
15 transmissions for the purpose of voting in state and federal  
16 elections, particularly for the casting of absentee ballots  
17 by men and women of the Armed Forces serving in Operation  
18 Desert Shield; and

19 WHEREAS, the federal Uniformed and Overseas Citizens  
20 Absentee Voting Act authorizes but does not require the use  
21 of facsimile ballots in federal elections; and

22 WHEREAS, state election laws currently present severe  
23 obstacles to the use of facsimile voter registration and the  
24 sending and receiving of absentee election ballots by  
25 facsimile; and

1 WHEREAS, the adoption of state laws allowing  
2 registration of absentee voters and the sending and  
3 receiving of absentee ballots by facsimile may increase the  
4 likelihood that absentee voters would exercise their right  
5 to vote; and

6 WHEREAS, adoption of rules by the Secretary of State  
7 that provide for absentee voter registration and the casting  
8 of absentee ballots by facsimile would provide maximum  
9 flexibility for state and local election officials to work  
10 with one another and appropriate federal officials to see  
11 that voting by facsimile becomes a reality in this state.  
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. **Section 1.** Legislative findings and  
15 purpose. The legislature finds that the increased use of  
16 facsimile transmissions has encouraged the possibility of  
17 absentee voter registration and the sending and receiving of  
18 absentee ballots by facsimile. The legislature also finds  
19 that while federal law encourages but does not require the  
20 use of facsimile transmissions in federal elections, there  
21 are sufficient reliability in facsimile technology and  
22 sufficient evidence that absentee facsimile voting would be  
23 of benefit to the state's residents, to provide for absentee  
24 registration and voting by facsimile. It is the purpose of  
25 [sections 1 through 3] to allow for absentee voter



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 2 state and local election officials have the responsibility  
 3 to maintain the accuracy, integrity, and secrecy of the  
 4 election process and the individual election ballot. It is  
 5 the purpose of the legislature to allow facsimile voting but  
 6 to continue to ensure that voting security is maintained for  
 7 the ultimate purpose of preventing election fraud and  
 8 maintaining the validity of the election process.

9 NEW SECTION. Section 2. Registration and voting by  
 10 facsimile authorized -- secretary of state to adopt rules --  
 11 acceptance of funds. (1) Notwithstanding other provisions of  
 12 this title, each election administrator may, in any primary  
 13 election, general election, and special election, take the  
 14 following acts by facsimile transmission, if facsimile  
 15 facilities are available, in place of the use of the public  
 16 mails when requested by an elector or individual intending  
 17 to become an elector:

- 18 (a) register an individual to vote;  
 19 (b) give notice of registration;  
 20 (c) receive requests for an absentee ballot;  
 21 (d) transmit absentee ballots to electors; and  
 22 (e) receive absentee ballots from electors.  
 23 (2) The secretary of state shall adopt reasonable rules  
 24 under the rulemaking provisions of the Montana  
 25 Administrative Procedure Act to implement subsection (1).

1 The rules are binding upon election administrators. The  
 2 rules must require compliance with the same time  
 3 requirements or deadlines as for registration and voting by  
 4 absentee ballot by use of the public mails, except that the  
 5 rules may provide for different times for the acceptance of  
 6 facsimile ballots after the closing of the polls. The rules  
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 8 ballot process and must allow registration and voting by  
 9 facsimile through use of a private corporation or other  
 10 private entity for transmission of facsimile messages only  
 11 if the secretary of state finds that the use is essential to  
 12 the purposes of [sections 1 through 3].

13 (3) The secretary of state may apply for and receive a  
 14 grant of funds from any agency or office of the United  
 15 States government or from any other public or private source  
 16 and may use the money for the purpose of implementing  
 17 [sections 1 through 3].

18 NEW SECTION. Section 3. Advisory council assistance --  
 19 report to legislature. (1) The secretary of state shall  
 20 adopt the rules required by [section 2(2)] with the  
 21 assistance of the secretary's election administrators  
 22 advisory council, and the advisory council shall assist and  
 23 advise the secretary in the implementation of [sections 1  
 24 through 3].

25 (2) The secretary of state shall by January 1, 1995,

1 prepare a written report to the legislature concerning the  
2 implementation of [sections 1 through 3] and the activities  
3 of the advisory council in implementing [sections 1 through  
4 3]. The report must:

5 (a) include copies of rules adopted by the secretary of  
6 state in accordance with [section 2];

7 (b) contain a detailed summary of the experience of the  
8 secretary of state and local election administrators in  
9 implementing [sections 1 through 3]; and

10 (c) include any recommendations for changes to the  
11 applicable laws.

12 NEW SECTION. Section 4. Effective dates. (1) [Sections  
13 1, 2(2), 2(3), 3, 5, and this section] are effective on  
14 passage and approval.

15 (2) [Section 2(1)] is effective July 1, 1992.

16 NEW SECTION. Section 5. Codification instruction.  
17 [Sections 1 and 2] are intended to be codified as an  
18 integral part of Title 13, chapter 13, part 2, and the  
19 provisions of Title 13, chapter 13, part 2, apply to  
20 [sections 1 and 2].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0225, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill permits election administrators to allow registration and voting by facsimile transmission if facsimile facilities are available; the Secretary of State would also be required to adopt rules for this procedure with the assistance of the Election Advisory Council.

ASSUMPTIONS:

1. The bill is not prescriptive but allows a local option for use of facsimile transmission.
2. Most counties that choose to participate will already have facsimile capability.

FISCAL IMPACT:

There is no fiscal impact to state agencies.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties without facsimile capability choosing to participate would need to purchase a facsimile machine at an initial cost of approximately \$1,500.



ROD SUNDSTED, BUDGET DIRECTOR  
Office of Budget and Program Planning

1-21-91

DATE



JOHN E. PHILLIPS, PRIMARY SPONSOR

DATE

Fiscal Note for HB0225, as introduced

HB 225

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

1 House BILL NO. 225  
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19 WHEREAS, the federal Uniformed and Overseas Citizens  
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21 of facsimile ballots in federal elections; and

22 WHEREAS, state election laws currently present severe  
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1 WHEREAS, the adoption of state laws allowing  
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4 likelihood that absentee voters would exercise their right  
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6 WHEREAS, adoption of rules by the Secretary of State  
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THIRD READING  
 HB 225

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-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 11, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 225 (third reading copy -- blue), respectfully report that House Bill No. 225 be amended and as so amended be concurred in:

1. Title, line 6.

Following: "TRANSMISSION"

Insert: "FOR ELECTORS IN THE UNITED STATES SERVICE"

2. Page 2, line 23.

Strike: "the state's residents"

Insert: "electors in the United States Service"

3. Page 3, line 5.

Following: "voting"

Insert: "for electors in the United States service"

4. Page 3, line 16.

Following: "or"

Insert: ", for the purposes of registration under subdivision  
(a),"

5. Page 3, line 17.

Following: "elector"

Insert: ", in the United States service as defined in 13-2-211"

Signed: \_\_\_\_\_

*Eleanor Vaughn*

Eleanor Vaughn, Chairman

*H. G. ...*  
App. Coord.

*SB 2/11 9:20*  
Sec. of Senate

SENATE

HOUSE BILL NO. 225  
INTRODUCED BY PHILLIPS

A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING ELECTION ADMINISTRATORS TO ALLOW REGISTRATION AND VOTING BY FACSIMILE TRANSMISSION FOR ELECTORS IN THE UNITED STATES SERVICE IF FACSIMILE FACILITIES ARE AVAILABLE; REQUIRING THE SECRETARY OF STATE TO ADOPT RULES; REQUIRING THE SECRETARY OF STATE'S ELECTION ADVISORY COUNCIL TO ASSIST THE SECRETARY IN THE ADOPTION OF THE RULES; REQUIRING THE SECRETARY OF STATE TO REPORT TO THE LEGISLATURE; AND PROVIDING EFFECTIVE DATES."

WHEREAS, there is increasing interest on the part of both state and federal agencies in the use of facsimile transmissions for the purpose of voting in state and federal elections, particularly for the casting of absentee ballots by men and women of the Armed Forces serving in Operation Desert Shield; and

WHEREAS, the federal Uniformed and Overseas Citizens Absentee Voting Act authorizes but does not require the use of facsimile ballots in federal elections; and

WHEREAS, state election laws currently present severe obstacles to the use of facsimile voter registration and the sending and receiving of absentee election ballots by facsimile; and

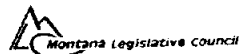
WHEREAS, the adoption of state laws allowing registration of absentee voters and the sending and receiving of absentee ballots by facsimile may increase the likelihood that absentee voters would exercise their right to vote; and

WHEREAS, adoption of rules by the Secretary of State that provide for absentee voter registration and the casting of absentee ballots by facsimile would provide maximum flexibility for state and local election officials to work with one another and appropriate federal officials to see that voting by facsimile becomes a reality in this state.

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NEW SECTION. **Section 1.** Legislative findings and purpose. The legislature finds that the increased use of facsimile transmissions has encouraged the possibility of absentee voter registration and the sending and receiving of absentee ballots by facsimile. The legislature also finds that while federal law encourages but does not require the use of facsimile transmissions in federal elections, there are sufficient reliability in facsimile technology and sufficient evidence that absentee facsimile voting would be of benefit to ~~the state's residents~~ ELECTORS IN THE UNITED STATES SERVICE, to provide for absentee registration and voting by facsimile. It is the purpose of [sections 1

REFERENCE BILL  
AS AMENDED HB 225



1 through 3] to allow for absentee voter registration and  
 2 voting by facsimile, while recognizing that state and local  
 3 election officials have the responsibility to maintain the  
 4 accuracy, integrity, and secrecy of the election process and  
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 16 following acts by facsimile transmission, if facsimile  
 17 facilities are available, in place of the use of the public  
 18 mails when requested by an elector or, FOR THE PURPOSES OF  
 19 REGISTRATION UNDER SUBSECTION (1)(A), AN individual  
 20 intending to become an elector, IN THE UNITED STATES  
 21 SERVICE, AS DEFINED IN 13-2-211:

- 22 (a) register an individual to vote;  
 23 (b) give notice of registration;  
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