

HOUSE BILL NO. 117

Introduced: 01/06/83

Referred to Committee on State Administration: 01/06/83

Hearing: 1/12/83

Report: 01/18/83, Do Not Pass

2nd Reading: 01/20/83, Do Not Pass

Bill Killed

1 *House* BILL NO. *117*
 2 INTRODUCED BY *Senator Keyser*
 3 *House*
 4 A BILL FOR AN ACT ENTITLED: AN ACT PROVIDING FOR AN OPEN
 5 PRIMARY ELECTION WITH A SINGLE BALLOT; AMENDING SECTIONS
 6 13-10-209, 13-10-301, 13-10-402, 13-12-203, 13-12-205, AND
 7 13-17-103, MCA; REPEALING SECTIONS 13-10-302 AND 13-10-311,
 8 MCA."

10 WHEREAS, Montana law requires no declaration of party
 11 affiliation and allows an elector to vote any one of several
 12 ballots in a primary election; and

13 WHEREAS, the purpose of a primary election is to select
 14 candidates for established political parties.

15 THEREFORE, the enactment of this bill or of its
 16 alternative, ____ Bill No. __ [LC 485], is intended to
 17 clarify Montana law by providing either a completely open
 18 primary election or a true closed primary election.

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

21 Section 1. Section 13-10-209, MCA, is amended to read:

22 "13-10-209. Arrangement of ballots. (1) Ballots for a
 23 primary election shall be arranged and printed in the same
 24 manner and number as provided in chapter 12 for general
 25 election ballots, except there shall be separate ballots for

1 each political party entitled to participate and separate
 2 nonpartisan and ballot issue ballots if necessary. The name
 3 of the political party shall be printed at the top of the
 4 separate ballot for that party and need not be printed
 5 opposite each candidate's names.

6 (2) It is not necessary to print a primary ballot for
 7 a political party which does not have candidates for more
 8 than half of the offices on the ballot in even year
 9 elections if no more than one candidate files for nomination
 10 by that party for any of the offices on the ballots. The
 11 secretary of state shall certify that no primary election is
 12 necessary for that party if such is the case and shall
 13 certify or instruct the election administrator to certify
 14 the names of the candidates for that party for the general
 15 election ballot only.

16 (3) The separate ballots for each party shall be the
 17 same size and color. The stubs of each set of party ballots
 18 shall bear the same numbers. The nonpartisan ballot shall be
 19 a different size or color than the party ballots, but the
 20 stubs shall be numbered in the same order as the party
 21 ballots.

22 (4) If a ballot issue is to be voted on at a primary
 23 election, it may be placed on the nonpartisan ballot or a
 24 separate ballot. A separate ballot may be a different size
 25 and color than the other ballots in the election, but the

INTRODUCED BILL

~~stubs shall be numbered in the same order.~~

~~(5) Each elector shall receive a set of party ballots and a nonpartisan and a ballot issue ballot if such ballots are printed."~~

Section 2. Section 13-10-301, MCA, is amended to read:

"13-10-301. Casting of ballot. (1) Unless otherwise provided by law, the conduct of the primary election, the voting procedure, the counting, tallying, and return of ballots and all election records and supplies, the canvass of votes, the certification and notification of nominees, recounts, procedures upon tie votes, and any other necessary election procedures shall be at the same times and in the same manner as provided for in the laws for the general election.

~~(2) At a primary election, the elector shall mark only one of the set of party ballots. After marking any other ballots received other than the party ballots, the elector shall fold the marked and unmarked ballots separately in a manner so that the marks cannot be seen, the official stamp is visible on each ballot, and all stubs can be detached by an election judge.~~

~~(3) The elector shall hand the marked and unmarked ballots separately to the election judge, identifying them as marked and unmarked. If the judge determines the ballots may be voted, he shall, in the presence of the electors,~~

~~(a) remove the stubs from all the ballots;~~

~~(b) deposit the unmarked ballot or ballots and all the stubs in the stub and unmarked ballot box;~~

~~(c) and deposit the marked ballots in the voted ballot box."~~

Section 3. Section 13-10-402, MCA, is amended to read:

"13-10-402. Ballot. The regular party primary ballot shall be used for the presidential preference primary election. The presidential section of the ballot shall be placed before any other section, national, state, or local."

Section 4. Section 13-12-203, MCA, is amended to read:

"13-12-203. Printing of candidate's name and party designation on ballot. (1) ~~Except as provided in 13-10-209 and 13-10-303, in~~ In partisan elections, candidates' names shall be printed under the title of the office sought, with the name of the party, in not more than three words, or "Independent" printed opposite the name.

(2) In nonpartisan elections, the candidates' names shall be printed under the title of the office sought, with no description or designation printed with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates shall have printed with them the words "Nominated without party designation"."

Section 5. Section 13-12-205, MCA, is amended to read:

1 *13-12-205. Arrangement of names -- rotation on
2 ballot. (1) The candidates' names shall be arranged
3 alphabetically on the ballot according to surnames under the
4 title of the respective offices.

5 (2) If two or more individuals are candidates for
6 nomination or election to the same office, the election
7 administrator shall divide the ballot forms into sets equal
8 in number to the greatest number of candidates for any
9 office. ~~The candidates for nomination to an office by each~~
10 ~~political party shall be considered separately in~~
11 ~~determining the number of sets necessary for a primary~~
12 ~~election.~~

13 (3) The election administrator shall begin with a form
14 arranged alphabetically and rotate so that each candidate's
15 name will be at the top of the list for each office on
16 substantially an equal number of ballots. If it is not
17 numerically possible to place each candidate's name at the
18 top of the list, the names shall be rotated in groups so
19 that each candidate's name is as near the top of the list as
20 possible on substantially an equal number of ballots.

21 (4) If the county contains more than one legislative
22 district, the election administrator may rotate each
23 candidate's name so that it will be at or near the top of
24 the list for each office on substantially an equal number of
25 ballots in each house district.

1 (5) For purposes of rotation, the offices of president
2 and vice president and of governor and lieutenant governor
3 shall be considered as a group.

4 (6) No more than one of the sets may be used in
5 printing the ballot for use in any one precinct, and all
6 ballots furnished for use in any precinct must be
7 identical."

8 Section 6. Section 13-17-103, MCA, is amended to read:

9 *13-17-103. Required specifications for equipment. A
10 voting machine or device may not be approved unless:

11 (1) an elector can vote in secrecy;

12 (2) an elector is prevented from voting for any
13 candidate or upon any ballot issue more than once and is
14 also prevented from voting on any office or ballot issue for
15 which he is not entitled to vote;

16 ~~(3) an elector can secretly select the party for which~~
17 ~~he wishes to vote in a primary election and the machine or~~
18 ~~device will count only votes for the candidates of that~~
19 ~~party by the elector in the primary election;~~

20 ~~(4)~~ (3) an elector can vote a split ticket in a general
21 election if he desires;

22 ~~(5)~~ (4) every valid vote cast is registered and
23 recorded;

24 ~~(6)~~ (5) the machine or device is constructed so that it
25 cannot be tampered with for a fraudulent purpose and is also

1 constructed so that during the progress of the voting no
2 individual can see or know the number of votes registered
3 for any candidate or on any ballot issue;

4 (7)(6) it allows write-in voting; and

5 (8)(7) a guarantee to provide training and assistance
6 to election officials will be included in each contract for
7 purchase of the machine or device."

8 NEW SECTION. Section 7. Repealer. Sections 13-10-302
9 and 13-10-311, MCA, are repealed.

-End-

recommend do not pass

Objection Raised to
Adverse Committee Report

HOUSE BILL NO. 117

INTRODUCED BY HENSTAD, KEYSER, PAVLOVICH,

LORY, HOWE, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN OPEN
PRIMARY ELECTION WITH A SINGLE BALLOT; AMENDING SECTIONS
13-10-209, 13-10-301, 13-10-402, 13-12-203, 13-12-205, AND
13-17-103, MCA; REPEALING SECTIONS 13-10-302 AND 13-10-311,
MCA."

WHEREAS, Montana law requires no declaration of party
affiliation and allows an elector to vote any one of several
ballots in a primary election; and

WHEREAS, the purpose of a primary election is to select
candidates for established political parties.

THEREFORE, the enactment of this bill or of its
alternative, _____ Bill No. ____ [LC 485], is intended to
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Section 1. Section 13-10-209, MCA, is amended to read:

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primary election shall be arranged and printed in the same
manner and number as provided in chapter 12 for general

~~election ballots, except there shall be separate ballots for
each political party entitled to participate and separate
nonpartisan and ballot issue ballots if necessary. The name
of the political party shall be printed at the top of the
separate ballot for that party and need not be printed
opposite each candidate's names.~~

~~(2) It is not necessary to print a primary ballot for
a political party which does not have candidates for more
than half of the offices on the ballot in even year
elections if no more than one candidate files for nomination
by that party for any of the offices on the ballots. The
secretary of state shall certify that no primary election is
necessary for that party if such is the case and shall
certify or instruct the election administrator to certify
the names of the candidates for that party for the general
election ballot only.~~

~~(3) The separate ballots for each party shall be the
same size and color. The stubs of each set of party ballots
shall bear the same numbers. The nonpartisan ballot shall be
a different size or color than the party ballots, but the
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~~(4) If a ballot issue is to be voted on at a primary
election, it may be placed on the nonpartisan ballot or a
separate ballot. A separate ballot may be a different size~~

1 ~~and color than the other ballots in the election, but the~~
 2 ~~stubs shall be numbered in the same order.~~

3 ~~{5} Each elector shall receive a set of party ballots~~
 4 ~~and a nonpartisan and a ballot issue ballot if such ballots~~
 5 ~~are printed."~~

6 Section 2. Section 13-10-301, MCA, is amended to read:

7 "13-10-301. Casting of ballot. ~~{1}~~ Unless otherwise

8 provided by law, the conduct of the primary election, the

9 voting procedure, the counting, tallying, and return of

10 ballots and all election records and supplies, the canvass

11 of votes, the certification and notification of nominees,

12 recounts, procedures upon tie votes, and any other necessary

13 election procedures shall be at the same times and in the

14 same manner as provided for in the laws for the general

15 election.

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 17 ~~one of the set of party ballots. After marking any other~~
 18 ~~ballots received other than the party ballots, the elector~~
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 24 ~~ballots separately to the election judge, identifying them~~
 25 ~~as marked and unmarked. If the judge determines the ballots~~

1 ~~may be voted, he shall, in the presence of the electors,~~

2 ~~{a} remove the stubs from all the ballots;~~

3 ~~{b} deposit the unmarked ballot or ballots and all the~~
 4 ~~stubs in the stub and unmarked ballot box;~~

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17 the name of the party, in not more than three words, or

18 "Independent" printed opposite the name.

19 {2} In nonpartisan elections, the candidates' names

20 shall be printed under the title of the office sought, with

21 no description or designation printed with the name unless

22 partisan and nonpartisan offices appear on the same ballot.

23 In such a case, the names of nonpartisan candidates shall

24 have printed with them the words "Nominated without party

25 designation"."

Section 5. Section 13-12-205, MCA, is amended to read:

"13-12-205. Arrangement of names -- rotation on ballot. (1) The candidates' names shall be arranged alphabetically on the ballot according to surnames under the title of the respective offices.

(2) If two or more individuals are candidates for nomination or election to the same office, the election administrator shall divide the ballot forms into sets equal in number to the greatest number of candidates for any office. ~~The candidates for nomination to an office by each political party shall be considered separately in determining the number of sets necessary for a primary election.~~

(3) The election administrator shall begin with a form arranged alphabetically and rotate so that each candidate's name will be at the top of the list for each office on substantially an equal number of ballots. If it is not numerically possible to place each candidate's name at the top of the list, the names shall be rotated in groups so that each candidate's name is as near the top of the list as possible on substantially an equal number of ballots.

(4) If the county contains more than one legislative district, the election administrator may rotate each candidate's name so that it will be at or near the top of the list for each office on substantially an equal number of

ballots in each house district.

(5) For purposes of rotation, the offices of president and vice president and of governor and lieutenant governor shall be considered as a group.

(6) No more than one of the sets may be used in printing the ballot for use in any one precinct, and all ballots furnished for use in any precinct must be identical."

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~~(3) an elector can secretly select the party for which he wishes to vote in a primary election and the machine or device will count only votes for the candidates of that party by the elector in the primary election;~~

~~(4)~~ (3) an elector can vote a split ticket in a general election if he desires;

~~(5)~~ (4) every valid vote cast is registered and recorded;

~~(6)~~ (5) the machine or device is constructed so that it

1 cannot be tampered with for a fraudulent purpose and is also
2 constructed so that during the progress of the voting no
3 individual can see or know the number of votes registered
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