

SENATE BILL NO. 61

1/07 Introduced
1/07 Referred to State Administration
2/18 Hearing
2/18 Tabled in Committee

1 SENATE BILL NO. 61
2 INTRODUCTION BY R. MANNING

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A
5 CRITERION FOR THE PRIVILEGE OF VOTING IN A POLITICAL PARTY'S
6 PRIMARY ELECTION; AUTHORIZING CHALLENGES OF PROSPECTIVE
7 VOTERS; PROVIDING CHANGES IN PRIMARY ELECTION PROCEDURES AND
8 VOTING; REQUIRING RECORDING OF PARTY AFFILIATION; CHANGING
9 OPERATION OF VOTING MACHINES AND DEVICES; PROVIDING
10 NONPARTISAN PRIMARY AND BALLOT ISSUE BALLOTS; AMENDING
11 SECTIONS 13-10-209, 13-10-301, 13-12-202, 13-13-115,
12 13-13-214, 13-13-301, 13-13-306, 13-14-115, AND 13-17-103,
13 MCA."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Qualification by prior vote
17 -- intention of new elector. Each registered elector who
18 voted at the last preceding general election for a majority
19 of the regularly nominated candidates of the party holding
20 the primary election or who did not vote in the last
21 preceding general election but intends to vote at the next
22 general election for a majority of the regularly nominated
23 candidates of the party holding the election is entitled to
24 vote in the party's primary election.

25 Section 2. Section 13-10-209, MCA, is amended to read:

1 "13-10-209. Arrangement and number of ballots. (1)
2 Ballots for a primary election shall be arranged and printed
3 in the same manner ~~and-number~~ as provided in chapter 12 for
4 general election ballots, except there shall be separate
5 ballots for each political party entitled to participate and
6 separate nonpartisan and ballot issue ballots if necessary.
7 The name of the political party shall be printed at the top
8 of the separate ballot for that party and need not be
9 printed opposite each candidate's name.

10 (2) The number of primary election ballots printed for
11 each party shall be equal to 125% of the number of votes
12 cast for the party at the last preceding general election.
13 The ballots for each party shall be numbered consecutively,
14 beginning with 1.

15 ~~(2)~~(3) It is not necessary to print a primary ballot
16 for a political party which does not have candidates for
17 more than half of the offices on the ballot in even-year
18 elections if no more than one candidate files for nomination
19 by that party for any of the offices on the ballot. The
20 secretary of state shall certify that no primary election is
21 necessary for that party if such is the case and shall
22 certify or instruct the election administrator to certify
23 the names of the candidates for that party for the general
24 election ballot only.

25 ~~(3)~~(4) The separate ballots for each party shall be



~~the same size and~~ of uniform size but of different color for each party, and no two parties may be furnished or use ballots of the same color. ~~The stubs of each set of party ballots shall bear the same number.~~ The nonpartisan ballot shall be a different size or color than the party ballots, but and the stubs shall be numbered ~~in the same order as the party ballots~~ consecutively, beginning with 1.

~~(4)~~(5) 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 and color than the other ballots in the election, but ~~and~~ the stubs shall be numbered ~~in the same order~~ consecutively, beginning with 1.

(6) The number of nonpartisan and ballot issue ballots furnished each precinct shall be determined according to 13-12-210.

~~(5)~~(7) Each elector shall receive a set of party ballots and a nonpartisan and a ballot issue ballot if such ballots are printed."

Section 3. 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 the ballot of only one of the set of party ballots. After marking any other ballots received other than the party ~~ballots~~ ballot, 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~~ who shall, in the presence of the elector:

(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; and~~

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

NEW SECTION. Section 4. Recording party affiliation -- party identification cards used with voting machines or devices. (1) In conformance with 13-13-115, the party affiliation of the elector must be recorded in addition to other required information.

1 (2) In any precinct where voting machines or devices
 2 are used, after complying with 13-13-115, an elector who is
 3 entitled to vote under this title shall receive from an
 4 election judge a printed party identification card
 5 corresponding to the party with which he declared
 6 affiliation. Before entering the voting booth, the elector
 7 shall give the judge his party identification card, and the
 8 judge shall set the voting machine or device to allow the
 9 elector to vote only for the candidates of his party. The
 10 judge shall then deposit the party identification card in a
 11 sealed container, and after the polls have closed the cards
 12 shall be counted and compared with the total number of
 13 votes. All party identification cards must be of durable
 14 material, and the card identifying each party must be of a
 15 distinctive color.

16 Section 5. Section 13-12-202, MCA, is amended to read:
 17 "13-12-202. Ballot form and uniformity. (1) The
 18 secretary of state shall prescribe the ballot form for all
 19 types of ballots used in this state.

20 (2) The names of all candidates printed upon the
 21 ballots shall be in type of the same size and character.

22 (3) When the stubs are detached, it must be impossible
 23 to distinguish any one of the ballots from another ballot
 24 for the same office or issue or, in a primary election, for
 25 the same party.

1 (4) The ballots must contain the name of every
 2 candidate whose nomination is certified under law for an
 3 office and no other names, except that the names of
 4 candidates for president and vice president of the United
 5 States shall appear on the ballot as provided in
 6 13-25-101(2)."

7 Section 6. Section 13-13-115, MCA, is amended to read:
 8 "13-13-115. Pollbooks. (1) In precincts using paper
 9 ballots, the name and party affiliation of each elector who
 10 votes shall be entered in a pollbook and numbered in the
 11 order voting so that the number corresponds with the number
 12 on the stubs of the ballots given the elector.

13 (2) In precincts where machines or devices are used, a
 14 pollbook need be used only for paper ballots. The election
 15 administrator shall provide such precincts with some method
 16 of recording the number of individuals voting."

17 Section 7. Section 13-13-214, MCA, is amended to read:
 18 "13-13-214. Mailing ballot to elector. (1) As soon as
 19 the official ballots are printed, the election administrator
 20 shall send by mail, postage prepaid, to each elector from
 21 whom he has received a valid application whatever official
 22 ballots are necessary. Ballots shall be sent immediately to
 23 electors submitting valid requests after the official
 24 ballots are printed.

25 (2) The election administrator shall enclose with the

1 ballots a self-addressed envelope for the return of the
2 ballots. An affirmation in the form prescribed by the
3 secretary of state shall be printed on the back of the
4 envelope.

5 (3) The election administrator shall stamp the ballots
6 sent to an absentee elector as provided in 13-13-116.

7 (4) Both the envelope in which the ballot is mailed to
8 an elector in the United States service and the return
9 envelope shall have printed across the face such information
10 and graphics and be of such color as may be prescribed by
11 the secretary of state consistent with the regulations
12 established by the federal election commission, U.S. postal
13 service, or other federal agency.

14 ~~{5}--if-the-ballots-sent--to--the--elector--are--for--a~~
15 ~~primary--election,--the--election--administrator--shall--enclose~~
16 ~~an--extra--envelope--marked--"For--Unvoted--Party--Ballot(s)"--This~~
17 ~~envelope--may--not--be--numbered--or--marked--in--any--way--so--it--can~~
18 ~~be--identified--as--being--used--by--any--one--elector.~~

19 {6}{5} Instructions for voting shall be enclosed with
20 the ballots. Instructions for primary elections must
21 include use of the envelope for unvoted ballots. The
22 instructions must include information concerning the type or
23 types of writing instruments which may be used to mark the
24 absentee ballot.

25 {7}{6} The return envelope shall be self-addressed to

1 the election administrator."

2 Section 8. Section 13-13-301, MCA, is amended to read:

3 "13-13-301. Challenges on election day. (1) An
4 elector's right to vote may be challenged on election day by
5 any registered elector by orally stating to the election
6 judges the grounds of the challenge.

7 (2) An individual offering to vote may be orally
8 challenged by any elector of the county upon the following
9 grounds:

10 (a) that he is not the individual whose name appears
11 on the register;

12 (b) that he does not reside at the residence listed
13 unless the elector is voting under the provisions of
14 13-2-512 and 13-2-514;

15 (c) that he is of unsound mind, as determined by a
16 court;

17 (d) that he has voted before in that election; or

18 (e) that he has been convicted of a felony and is
19 serving a sentence in a penal institution.

20 (3) An individual offering to vote in a political
21 party's primary election may be challenged by any member of
22 that party who is an elector in the county, on the ground
23 that the individual is not affiliated with that party."

24 Section 9. Section 13-13-306, MCA, is amended to read:

25 "13-13-306. Proceedings pursuant to challenges --

1 oaths. (1) If the challenge is on the ground that the
 2 individual is not the elector whose name appears on the
 3 official register, the election judges shall administer the
 4 following oath: "I, (name of elector), do swear (or
 5 affirm) that I am the individual whose name is entered on
 6 the official register and precinct list."

7 (2) If the challenge is on the ground that the
 8 individual does not reside at the residence listed, the
 9 judges shall administer this oath: "I, (name of
 10 elector), do swear (or affirm) that I reside at
 11 (state precise address), which is the address listed on the
 12 official register."

13 (3) If the challenge is on the ground that the
 14 individual has voted before in that election, the judges
 15 shall administer this oath: "I, (name of elector), do
 16 swear (or affirm) that I have not voted before in this
 17 election."

18 (4) If the challenge is on the ground that the
 19 individual has been convicted of a felony and is serving a
 20 sentence in a penal institution, the judges shall administer
 21 the following oath: "I, (name of elector), do swear
 22 (or affirm) either that I have not been convicted of a
 23 felony or that, if I have been convicted of a felony, I am
 24 not serving a sentence in a penal institution."

25 (5) If the challenge at a primary election is on the

1 ground that the individual is not affiliated with the party
 2 in whose primary he proposes to vote:

3 (a) the judges shall administer the following oath:
 4 "I, (name of elector), do swear (or affirm) that t
 5 the general election of 19.. I voted for a majority of the
 6 regular nominees of the (name of party) party and
 7 that I intend to support and vote for the regular nominees
 8 of the (name of party) party at the coming
 9 election.;" or

10 (b) if the individual did not vote in the last
 11 preceding general election, the judges shall administer the
 12 following oath: "I, (name of elector), do swear (or
 13 affirm) that I intend to vote at the general election of
 14 19.. for a majority of the regular nominees of the
 15 (name of party) party."

16 {5}(6) The election judges may administer any other
 17 oath relating to the individual's qualification to vote that
 18 they feel necessary."

19 Section 10. Section 13-14-115, MCA, is amended to
 20 read:

21 "13-14-115. Preparation and distribution of
 22 nonpartisan primary ballots. (1) The election administrators
 23 shall arrange, prepare, and distribute primary ballots for
 24 nonpartisan offices, designated "nonpartisan primary
 25 ballots". They shall be arranged as other primary ballots

1 and be without political designation.

2 (2) The number of nonpartisan primary ballots and
3 sample ballots furnished shall be ~~the same as other primary~~
4 ballots determined according to 13-12-210.

5 (3) In a political subdivision with a population of
6 10,000 or less, the governing body may determine that a
7 primary need not be held if:

8 (a) the number of candidates for an office exceeds
9 twice the number to be elected to that office in no more
10 than one-half of the offices on the ballot;

11 (b) the number of candidates in excess of twice the
12 number to be elected is not more than one for any office on
13 the ballot; and

14 (c) the governing body passes a resolution not more
15 than 7 days after the close of filing by candidates for
16 election stating that a primary election need not be held."

17 Section 11. Section 13-17-103, MCA, is amended to
18 read:

19 "13-17-103. Required specifications for equipment. A
20 voting machine or device may not be approved unless:

21 (1) an elector can vote in secrecy;

22 (2) an elector is prevented from voting for any
23 candidate or upon any ballot issue more than once and is
24 also prevented from voting on any office or ballot issue for
25 which he is not entitled to vote;

1 (3) ~~(a) an elector--can-secretly-select-the-party-for~~
2 ~~which-he-wishes-to-vote~~ election judge can set the voting
3 machine or device to allow an elector to vote only for the
4 candidates of the party with which the elector has declared
5 his affiliation as provided in [section 1] in a primary
6 election; and

7 (b) the machine or device will count only votes for the
8 candidates of that party by the elector in the primary
9 election;

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

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

13 (6) the machine or device is constructed so that it
14 cannot be tampered with for a fraudulent purpose and is also
15 constructed so that during the progress of the voting no
16 individual can see or know the number of votes registered
17 for any candidate or on any ballot issue;

18 (7) it allows write-in voting; and

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

22 NEW SECTION. Section 12. Codification instruction.
23 Sections 1 and 4 are intended to be codified as integral
24 parts of Title 13, chapter 10, part 3, and the provisions of
25 Title 13 apply to sections 1 and 4.