

HOUSE BILL NO. 747

INTRODUCED BY GOULD, CAMPBELL, HARDING, MCCALLUM,
KOLSTAD, JENKINS, VAN VALKENBURG, QUILICI, CONNELLY,
MANNING, KEENAN, FRITZ, C. SMITH, VAUGHN, MILES, E. SMITH

BY REQUEST OF THE SECRETARY OF STATE

IN THE HOUSE

FEBRUARY 14, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

FEBRUARY 19, 1987 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

 STATEMENT OF INTENT ADOPTED.

FEBRUARY 20, 1987 PRINTING REPORT.

FEBRUARY 21, 1987 SECOND READING, DO PASS.

FEBRUARY 23, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 99; NOES, 0.

 TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON STATE ADMINISTRATION.

MARCH 10, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 13, 1987 SECOND READING, CONCURRED IN.

MARCH 16, 1987 THIRD READING, CONCURRED IN.
 AYES, 50; NOES, 0.

 RETURNED TO HOUSE.

IN THE HOUSE

MARCH 17, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 House BILL NO. 747
 2 INTRODUCED BY John Campbell Harding Kabara
 3 BY REQUEST OF THE SECRETARY OF STATE W. Villalobos
 4 Richard E. Manning Keena
 5 Smith Vaughan Miles
 6 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE SECRETARY
 7 OF STATE TO ASSURE POLLING PLACE AND VOTING ACCESSIBILITY
 8 FOR HANDICAPPED AND ELDERLY VOTERS; GRANTING RULEMAKING
 9 AUTHORITY; ESTABLISHING PROCEDURES FOR DETERMINING POLLING
 10 PLACE ACCESSIBILITY; PROVIDING HANDICAPPED AND ELDERLY
 11 VOTERS AN ALTERNATIVE MEANS FOR CASTING A BALLOT ON ELECTION
 12 DAY IF THEIR POLLING PLACE IS INACCESSIBLE; AND AMENDING
 13 SECTIONS 13-2-601, 13-3-105, 13-13-112, AND 13-13-211, MCA."

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 NEW SECTION. Section 1. Purpose. The purpose of
 16 [sections 1 through 10] is to promote the fundamental right
 17 to vote by improving access for handicapped and elderly
 18 individuals to polling places. The provisions of [sections 1
 19 through 10] acknowledge that, in certain cases, it may not
 20 be possible to locate a polling place that meets the
 21 standards for accessibility, either because no accessible
 22 polling place exists or, if it does, its location in the
 23 precinct would require undue travel for a majority of the
 24 electors. In those cases when an accessible polling place is
 25 not available, [sections 1 through 10] provide handicapped

1 and elderly voters an alternative means for casting a ballot
 2 on election day.

3 NEW SECTION. Section 2. Definitions. As used in
 4 [sections 1 through 10], unless the context indicates
 5 otherwise, the following definitions apply:

6 (1) "Accessible" means accessible to handicapped and
 7 elderly individuals for purposes of voting as determined in
 8 accordance with standards established by the secretary of
 9 state under [section 5].

10 (2) "Elderly" means 65 years of age or older.

11 (3) "Election" means a general, special, or primary
 12 election held in an even-numbered year, as provided for in
 13 13-1-104(1) and 13-1-107(1).

14 (4) "Handicapped" means having a temporary or
 15 permanent physical impairment such as:

- 16 (a) impaired vision;
- 17 (b) impaired hearing; or
- 18 (c) impaired mobility. Individuals having impaired
 19 mobility include those who require use of a wheelchair and
 20 those who are ambulatory but are physically impaired due to
 21 age, disability, or disease.

22 NEW SECTION. Section 3. Duty of secretary of state --
 23 rulemaking. (1) Except as provided in [section 4], the
 24 secretary of state shall assure that all polling places are
 25 accessible to handicapped and elderly electors on election

1 day.

2 (2) The secretary of state shall adopt rules to
3 establish standards that a polling place must meet in order
4 to be designated accessible under [sections 1 through 10].

5 (3) The secretary of state may adopt any other rules
6 necessary for implementation of [sections 1 through 10].

7 NEW SECTION. Section 4. Exceptions. [Section 3] does
8 not apply to a polling place that:

9 (1) is a rural polling place as defined in [section
10 7];

11 (2) has been granted an emergency exemption as
12 provided in [section 8]; or

13 (3) is declared exempt under [section 9] because no
14 accessible polling place is available.

15 NEW SECTION. Section 5. Adoption of standards for
16 polling place accessibility -- rulemaking authority. The
17 secretary of state, with advice from election administrators
18 and handicapped and elderly individuals, shall establish
19 standards for accessibility of polling places. The
20 standards, whenever possible, must be consistent with the
21 standards for accessibility established by the American
22 National Standards Institute and the Uniform Federal
23 Accessibility Standards.

24 NEW SECTION. Section 6. Survey of polling places to
25 determine accessibility -- procedures. (1) Except as

1 provided in [sections 7 and 8], the election administrator
2 in each county shall conduct an onsite survey of each
3 polling place used in an election to determine whether such
4 polling place meets the standards for accessibility
5 established under [section 5].

6 (2) Each election administrator shall conduct the
7 survey in a manner that represents the path of travel an
8 elector would reasonably be expected to take in order to
9 reach the polling place on election day.

10 (3) A polling place that has been surveyed and
11 designated as accessible need not be surveyed again so long
12 as the conditions of accessibility remain unchanged.

13 NEW SECTION. Section 7. Polling place
14 classifications. (1) As a result of the survey provided in
15 [section 6], each polling place must be classified as:

16 (a) accessible;

17 (b) inaccessible;

18 (c) technically inaccessible but usable; or

19 (d) rural.

20 (2) An accessible polling place is one that meets the
21 standards for accessibility established by the secretary of
22 state under [section 5].

23 (3) An inaccessible polling place is one that does not
24 meet the standards for accessibility and cannot be made
25 accessible through safe, practical, and cost-effective

1 methods.

2 (4) A technically inaccessible but usable polling
3 place is one that does not meet all the standards for
4 accessibility but has been surveyed, evaluated, and
5 certified as being adequate for use as a polling place.
6 Such certification is cause for the secretary of state to
7 grant the polling place an exemption from the standards for
8 accessibility. However, in a future election, the secretary
9 of state may issue an objection to the criteria used for
10 determining that the facility is usable as a polling place.

11 (5) A rural polling place is one that serves less than
12 200 registered electors and is:

13 (a) granted an exemption from the standards for
14 accessibility established under [section 5]; and

15 (b) subject to review and redesignation 45 days prior
16 to an election.

17 (6) A rural designation may not be construed as cause
18 for denying handicapped or elderly electors at a polling
19 place the right to choose an alternative means for casting a
20 ballot on election day as provided in [section 10].

21 NEW SECTION. Section 8. Emergency exemption. (1) The
22 secretary of state shall exempt a polling place from the
23 requirements of [sections 1 through 10] if an emergency
24 occurs within 10 days prior to an election. An emergency is
25 considered to exist if a polling place becomes unavailable

1 by reason of loss of lease, fire, snow, or natural disaster.

2 (2) If an emergency occurs, the election administrator
3 in the county shall designate a new polling place in
4 accordance with the procedure provided in 13-3-105. The new
5 polling place must be considered temporary and must be
6 exempt from the survey procedures established under [section
7 6]. However, such polling place may not be used in a
8 subsequent election unless it is surveyed as required in
9 [section 6].

10 NEW SECTION. Section 9. Exemption if no accessible
11 polling place is available. (1) If an existing polling place
12 has been surveyed and designated as being inaccessible, the
13 election administrator shall make a reasonable effort to
14 locate and survey all potential sites with comparable
15 utility as a polling place.

16 (2) The election administrator shall request in
17 writing to the secretary of state that an inaccessible
18 polling place be exempt from the standards for accessibility
19 if:

20 (a) all potential polling places have been surveyed
21 and it is determined that no accessible polling place is
22 available; and

23 (b) the county cannot safely or reasonably make a
24 polling place temporarily accessible in the area involved.

25 (3) Nothing in this section may require an election

1 administrator to select an accessible facility as a polling
2 place if its location requires excessive travel or imposes
3 other hardships for the majority of qualified electors in
4 the precinct.

5 NEW SECTION. Section 10. Alternative means for
6 casting ballot. (1) The election administrator shall provide
7 handicapped and elderly individuals an alternative means for
8 casting a ballot on election day if they are assigned to an
9 inaccessible polling place. These alternative means for
10 casting a ballot include:

11 (a) delivery of a ballot to the elector as provided in
12 13-13-118;

13 (b) voting by absentee ballot as provided in
14 13-13-222; and

15 (c) prearranged assignment to an accessible polling
16 place within the county.

17 (2) Any handicapped or elderly elector assigned to an
18 inaccessible polling place who desires to vote at an
19 accessible polling place:

20 (a) shall request assignment to an accessible polling
21 place by notifying the election administrator in writing at
22 least 7 days preceding the election;

23 (b) must be assigned to the nearest accessible polling
24 place or technically inaccessible polling place for the
25 purpose of voting in the election;

1 (c) shall sign his name on a special addendum to the
2 official precinct register as required in 13-2-601; and

3 (d) shall receive the same ballot to which he is
4 otherwise entitled.

5 (3) For the purpose of subsection (2), the ballot cast
6 at an alternative polling place must be processed and
7 counted in the same manner as an absentee ballot.

8 Section 11. Section 13-2-601, MCA, is amended to read:

9 "13-2-601. Name on precinct register prima facie
10 evidence of right to vote. (1) An elector may not vote at an
11 election mentioned in this title unless his name appears on
12 election day in the copy of the official precinct register
13 furnished by the election administrator to the election
14 judges. The fact that his name appears in the copy of the
15 precinct register is prima facie evidence of his right to
16 vote.

17 (2) The name of an elector who has been assigned to
18 vote in a precinct other than the precinct in which he is
19 registered, as provided in [section 10], must be printed on
20 a special addendum to the precinct register in a form
21 prescribed by the secretary of state. The fact that an
22 elector's name appears on a special addendum to the precinct
23 register is prima facie evidence of his right to vote in the
24 precinct."

25 Section 12. Section 13-3-105, MCA, is amended to read:

1 "13-3-105. Designation of polling place. (1) The
 2 county governing body shall designate the polling place for
 3 each precinct no later than 30 days before a primary
 4 election. The same polling place shall be used for both the
 5 primary and general election if at all possible. Changes may
 6 be made by the governing body in designated polling places
 7 up to 10 days before an election if a designated polling
 8 place is not available. Polling places may be located
 9 outside the boundaries of a precinct.

10 (2) Not more than 10 or less than 2 days before an
 11 election, the election administrator shall publish in a
 12 newspaper of general circulation in the county, a statement
 13 of the locations of the precinct polling places. The
 14 election administrator shall include in the published notice
 15 the accessibility designation for each polling place
 16 according to the classification in [section 7]. Notice may
 17 also be given as provided in 2-3-105 through 2-3-107.

18 (3) An election administrator may make changes in the
 19 location of a polling place if an emergency occurs 10 days
 20 or less before an election. Notice shall be posted at both
 21 the old and new polling places, and other notice may be
 22 given by whatever means available.

23 (4) Any publicly owned building may be used as a
 24 polling place. Such building must be furnished at no charge
 25 as long as no structural changes are required in order to

1 use the building as a polling place."

2 Section 13. Section 13-13-112, MCA, is amended to
 3 read:

4 "13-13-112. Display of instructions for electors. (1)
 5 Instructions for electors on how to prepare their ballots or
 6 use machines or devices must be posted in each compartment
 7 provided for the preparation of ballots and elsewhere in the
 8 polling place.

9 (2) The instructions must be in easily read type, 18
 10 point or larger, and explain how to:

- 11 (a) obtain ballots for voting;
 12 (b) prepare ballots for deposit in the ballot box; and
 13 (c) obtain a new ballot in place of one spoiled by
 14 accident.

15 (3) If the instructions for use of the machine or
 16 device are printed on the machine or device or are part of a
 17 ballot package given each elector, separate instructions
 18 need not be posted in the compartment.

19 (4) Official ballots for the precinct, clearly marked
 20 "sample" across the face, shall be posted in each booth or
 21 compartment and in conspicuous places about the polling
 22 place in all precincts where paper ballots are used.
 23 Diagrams showing the arrangement of the ballot for that
 24 precinct shall be posted in conspicuous places about the
 25 polling place in all precincts using machines or devices."

1 Section 14. Section 13-13-211, MCA, is amended to
2 read:

3 "13-13-211. Application of absentee, chronically ill,
4 handicapped, elderly, or physically incapacitated elector
5 for ballot -- special absentee ballot application. (1)
6 Except as provided in 13-2-214, during a period beginning 75
7 days before the day of election and ending at noon on the
8 day before the election, an individual may apply to the
9 election administrator for an absentee ballot if he is:

10 (a) an elector expecting to be absent from the county
11 in which his voting precinct is situated;

12 (b) an elector who is chronically ill or in general
13 ill health;

14 (c) a handicapped or elderly elector who has been
15 assigned to an inaccessible polling place; or

16 (d) an elector who will be unable to go to the polls
17 because of physical incapacity ~~may--apply--to--the--election~~
18 ~~administrator--for--an--absentee--ballot.~~

19 (2) A qualified elector who is prevented from voting
20 at the polls as a result of an illness or health emergency
21 occurring between 5 p.m. on the Friday preceding the
22 election and noon on election day may request to vote by
23 absentee ballot. The election administrator shall honor any
24 such request received up to and including noon on election
25 day. The election administrator is not required to comply

1 with a request by an elector who is absent from the county."

2 NEW SECTION. Section 15. Extension of authority. Any
3 existing authority of the secretary of state to make rules
4 on the subject of the provisions of this act is extended to
5 the provisions of this act.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 STATEMENT OF INTENT

2 HOUSE BILL 747

3 House State Administration Committee
4

5 A statement of intent is required for this bill because
6 it grants the secretary of state authority to adopt rules to
7 assure accessibility at the polling place for handicapped
8 and elderly voters. Such rules must be adopted under the
9 Montana Administrative Procedure Act and must be consistent
10 with the provisions of this act.

11 It is the intent of the legislature that the secretary
12 of state adopt rules to establish standards that a polling
13 place must meet in order to be designated accessible under
14 this act. Wherever possible, these standards should be
15 consistent with the standards established by the American
16 National Standards Institute and the Uniform Federal
17 Accessibility Standards.

18 In addition, it is intended that the secretary of state
19 establish polling place classifications and survey
20 procedures to determine whether polling places are
21 accessible to handicapped and elderly voters. The secretary
22 of state should also define the basis for an emergency
23 exemption under section 8, which allows an election
24 administrator to relocate an established polling place
25 within 10 days prior to an election.

1 Finally, it is contemplated that the secretary of state
2 establish procedures to allow an elector to vote on election
3 day by alternative means if he is prevented from voting at
4 his assigned polling place because it is inaccessible.

HOUSE BILL NO. 747

INTRODUCED BY GOULD, CAMPBELL, HARDING, MCCALLUM,
KOLSTAD, JENKINS, VAN VALKENBURG, QUILICI, CONNELLY,
MANNING, KEENAN, FRITZ, C. SMITH, VAUGHN, MILES, E. SMITH
BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE SECRETARY
OF STATE TO ASSURE POLLING PLACE AND VOTING ACCESSIBILITY
FOR HANDICAPPED AND ELDERLY VOTERS; GRANTING RULEMAKING
AUTHORITY; ESTABLISHING PROCEDURES FOR DETERMINING POLLING
PLACE ACCESSIBILITY; PROVIDING HANDICAPPED AND ELDERLY
VOTERS AN ALTERNATIVE MEANS FOR CASTING A BALLOT ON ELECTION
DAY IF THEIR POLLING PLACE IS INACCESSIBLE; AND AMENDING
SECTIONS 13-2-601, 13-3-105, 13-13-112, AND 13-13-211, MCA."

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

NEW SECTION. Section 1. Purpose. The purpose of
[sections 1 through 10] is to promote the fundamental right
to vote by improving access for handicapped and elderly
individuals to polling places. The provisions of [sections 1
through 10] acknowledge that, in certain cases, it may not
be possible to locate a polling place that meets the
standards for accessibility, either because no accessible
polling place exists or, if it does, its location in the
precinct would require undue travel for a majority of the

electors. In those cases when an accessible polling place is
not available, [sections 1 through 10] provide handicapped
and elderly voters an alternative means for casting a ballot
on election day.

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 10], unless the context indicates
otherwise, the following definitions apply:

(1) "Accessible" means accessible to handicapped and
elderly individuals for purposes of voting as determined in
accordance with standards established by the secretary of
state under [section 5].

(2) "Elderly" means 65 years of age or older.

(3) "Election" means a general, special, or primary
election held in an even-numbered year, as provided for in
13-1-104(1) and 13-1-107(1).

(4) "Handicapped" means having a temporary or
permanent physical impairment such as:

(a) impaired vision;

(b) impaired hearing; or

(c) impaired mobility. Individuals having impaired
mobility include those who require use of a wheelchair and
those who are ambulatory but are physically impaired due to
age, disability, or disease.

NEW SECTION. Section 3. Duty of secretary of state --
rulemaking. (1) Except as provided in [section 4], the

1 secretary of state shall assure that all polling places are
2 accessible to handicapped and elderly electors on election
3 day.

4 (2) The secretary of state shall adopt rules to
5 establish standards that a polling place must meet in order
6 to be designated accessible under [sections 1 through 10].

7 (3) The secretary of state may adopt any other rules
8 necessary for implementation of [sections 1 through 10].

9 NEW SECTION. Section 4. Exceptions. [Section 3] does
10 not apply to a polling place that:

11 (1) is a rural polling place as defined in [section
12 7];

13 (2) has been granted an emergency exemption as
14 provided in [section 8]; or

15 (3) is declared exempt under [section 9] because no
16 accessible polling place is available.

17 NEW SECTION. Section 5. Adoption of standards for
18 polling place accessibility -- rulemaking authority. The
19 secretary of state, with advice from election administrators
20 and handicapped and elderly individuals, shall establish
21 standards for accessibility of polling places. The
22 standards, whenever possible, must be consistent with the
23 standards for accessibility established by the American
24 National Standards Institute and the Uniform Federal
25 Accessibility Standards.

1 NEW SECTION. Section 6. Survey of polling places to
2 determine accessibility -- procedures. (1) Except as
3 provided in [sections 7 and 8], the election administrator
4 in each county shall conduct an onsite survey of each
5 polling place used in an election to determine whether such
6 polling place meets the standards for accessibility
7 established under [section 5].

8 (2) Each election administrator shall conduct the
9 survey in a manner that represents the path of travel an
10 elector would reasonably be expected to take in order to
11 reach the polling place on election day.

12 (3) A polling place that has been surveyed and
13 designated as accessible need not be surveyed again so long
14 as the conditions of accessibility remain unchanged.

15 NEW SECTION. Section 7. Polling place
16 classifications. (1) As a result of the survey provided in
17 [section 6], each polling place must be classified as:

18 (a) accessible;

19 (b) inaccessible;

20 (c) technically inaccessible but usable; or

21 (d) rural.

22 (2) An accessible polling place is one that meets the
23 standards for accessibility established by the secretary of
24 state under [section 5].

25 (3) An inaccessible polling place is one that does not

1 meet the standards for accessibility and cannot be made
2 accessible through safe, practical, and cost-effective
3 methods.

4 (4) A technically inaccessible but usable polling
5 place is one that does not meet all the standards for
6 accessibility but has been surveyed, evaluated, and
7 certified as being adequate for use as a polling place.
8 Such certification is cause for the secretary of state to
9 grant the polling place an exemption from the standards for
10 accessibility. However, in a future election, the secretary
11 of state may issue an objection to the criteria used for
12 determining that the facility is usable as a polling place.

13 (5) A rural polling place is one that serves less than
14 200 registered electors and is:

15 (a) granted an exemption from the standards for
16 accessibility established under [section 5]; and

17 (b) subject to review and redesignation 45 days prior
18 to an election.

19 (6) A rural designation may not be construed as cause
20 for denying handicapped or elderly electors at a polling
21 place the right to choose an alternative means for casting a
22 ballot on election day as provided in [section 10].

23 NEW SECTION. Section 8. Emergency exemption. (1) The
24 secretary of state shall exempt a polling place from the
25 requirements of [sections 1 through 10] if an emergency

1 occurs within 10 days prior to an election. An emergency is
2 considered to exist if a polling place becomes unavailable
3 by reason of loss of lease, fire, snow, or natural disaster.

4 (2) If an emergency occurs, the election administrator
5 in the county shall designate a new polling place in
6 accordance with the procedure provided in 13-3-105. The new
7 polling place must be considered temporary and must be
8 exempt from the survey procedures established under [section
9 6]. However, such polling place may not be used in a
10 subsequent election unless it is surveyed as required in
11 [section 6].

12 NEW SECTION. Section 9. Exemption if no accessible
13 polling place is available. (1) If an existing polling place
14 has been surveyed and designated as being inaccessible, the
15 election administrator shall make a reasonable effort to
16 locate and survey all potential sites with comparable
17 utility as a polling place.

18 (2) The election administrator shall request in
19 writing to the secretary of state that an inaccessible
20 polling place be exempt from the standards for accessibility
21 if:

22 (a) all potential polling places have been surveyed
23 and it is determined that no accessible polling place is
24 available; and

25 (b) the county cannot safely or reasonably make a

1 polling place temporarily accessible in the area involved.

2 (3) Nothing in this section may require an election
3 administrator to select an accessible facility as a polling
4 place if its location requires excessive travel or imposes
5 other hardships for the majority of qualified electors in
6 the precinct.

7 NEW SECTION. Section 10. Alternative means for
8 casting ballot. (1) The election administrator shall provide
9 handicapped and elderly individuals an alternative means for
10 casting a ballot on election day if they are assigned to an
11 inaccessible polling place. These alternative means for
12 casting a ballot include:

13 (a) delivery of a ballot to the elector as provided in
14 13-13-118;

15 (b) voting by absentee ballot as provided in
16 13-13-222; and

17 (c) prearranged assignment to an accessible polling
18 place within the county.

19 (2) Any handicapped or elderly elector assigned to an
20 inaccessible polling place who desires to vote at an
21 accessible polling place:

22 (a) shall request assignment to an accessible polling
23 place by notifying the election administrator in writing at
24 least 7 days preceding the election;

25 (b) must be assigned to the nearest accessible polling

1 place or technically inaccessible polling place for the
2 purpose of voting in the election;

3 (c) shall sign his name on a special addendum to the
4 official precinct register as required in 13-2-601; and

5 (d) shall receive the same ballot to which he is
6 otherwise entitled.

7 (3) For the purpose of subsection (2), the ballot cast
8 at an alternative polling place must be processed and
9 counted in the same manner as an absentee ballot.

10 Section 11. Section 13-2-601, MCA, is amended to read:

11 "13-2-601. Name on precinct register prima facie
12 evidence of right to vote. (1) An elector may not vote at an
13 election mentioned in this title unless his name appears on
14 election day in the copy of the official precinct register
15 furnished by the election administrator to the election
16 judges. The fact that his name appears in the copy of the
17 precinct register is prima facie evidence of his right to
18 vote.

19 (2) The name of an elector who has been assigned to
20 vote in a precinct other than the precinct in which he is
21 registered, as provided in [section 10], must be printed on
22 a special addendum to the precinct register in a form
23 prescribed by the secretary of state. The fact that an
24 elector's name appears on a special addendum to the precinct
25 register is prima facie evidence of his right to vote in the

1 precinct."

2 Section 12. Section 13-3-105, MCA, is amended to read:

3 "13-3-105. Designation of polling place. (1) The
4 county governing body shall designate the polling place for
5 each precinct no later than 30 days before a primary
6 election. The same polling place shall be used for both the
7 primary and general election if at all possible. Changes may
8 be made by the governing body in designated polling places
9 up to 10 days before an election if a designated polling
10 place is not available. Polling places may be located
11 outside the boundaries of a precinct.

12 (2) Not more than 10 or less than 2 days before an
13 election, the election administrator shall publish in a
14 newspaper of general circulation in the county, a statement
15 of the locations of the precinct polling places. The
16 election administrator shall include in the published notice
17 the accessibility designation for each polling place
18 according to the classification in [section 7]. Notice may
19 also be given as provided in 2-3-105 through 2-3-107.

20 (3) An election administrator may make changes in the
21 location of a polling place if an emergency occurs 10 days
22 or less before an election. Notice shall be posted at both
23 the old and new polling places, and other notice may be
24 given by whatever means available.

25 (4) Any publicly owned building may be used as a

1 polling place. Such building must be furnished at no charge
2 as long as no structural changes are required in order to
3 use the building as a polling place."

4 Section 13. Section 13-13-112, MCA, is amended to
5 read:

6 "13-13-112. Display of instructions for electors. (1)
7 Instructions for electors on how to prepare their ballots or
8 use machines or devices must be posted in each compartment
9 provided for the preparation of ballots and elsewhere in the
10 polling place.

11 (2) The instructions must be in easily read type, 18
12 point or larger, and explain how to:

13 (a) obtain ballots for voting;

14 (b) prepare ballots for deposit in the ballot box; and

15 (c) obtain a new ballot in place of one spoiled by
16 accident.

17 (3) If the instructions for use of the machine or
18 device are printed on the machine or device or are part of a
19 ballot package given each elector, separate instructions
20 need not be posted in the compartment.

21 (4) Official ballots for the precinct, clearly marked
22 "sample" across the face, shall be posted in each booth or
23 compartment and in conspicuous places about the polling
24 place in all precincts where paper ballots are used.
25 Diagrams showing the arrangement of the ballot for that

1 precinct shall be posted in conspicuous places about the
2 polling place in all precincts using machines or devices."

3 Section 14. Section 13-13-211, MCA, is amended to
4 read:

5 "13-13-211. Application of absentee, chronically ill,
6 handicapped, elderly, or physically incapacitated elector
7 for ballot -- special absentee ballot application. (1)
8 Except as provided in 13-2-214, during a period beginning 75
9 days before the day of election and ending at noon on the
10 day before the election, an individual may apply to the
11 election administrator for an absentee ballot if he is:

12 (a) an elector expecting to be absent from the county
13 in which his voting precinct is situated;

14 (b) an elector who is chronically ill or in general
15 ill health;

16 (c) a handicapped or elderly elector who has been
17 assigned to an inaccessible polling place; or

18 (d) an elector who will be unable to go to the polls
19 because of physical incapacity ~~may--apply--to--the--election~~
20 ~~administrator-for-an-absentee-ballot.~~

21 (2) A qualified elector who is prevented from voting
22 at the polls as a result of an illness or health emergency
23 occurring between 5 p.m. on the Friday preceding the
24 election and noon on election day may request to vote by
25 absentee ballot. The election administrator shall honor any

1 such request received up to and including noon on election
2 day. The election administrator is not required to comply
3 with a request by an elector who is absent from the county."

4 NEW SECTION. Section 15. Extension of authority. Any
5 existing authority of the secretary of state to make rules
6 on the subject of the provisions of this act is extended to
7 the provisions of this act.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 747

3 House State Administration Committee
4

5 A statement of intent is required for this bill because
6 it grants the secretary of state authority to adopt rules to
7 assure accessibility at the polling place for handicapped
8 and elderly voters. Such rules must be adopted under the
9 Montana Administrative Procedure Act and must be consistent
10 with the provisions of this act.

11 It is the intent of the legislature that the secretary
12 of state adopt rules to establish standards that a polling
13 place must meet in order to be designated accessible under
14 this act. Wherever possible, these standards should be
15 consistent with the standards established by the American
16 National Standards Institute and the Uniform Federal
17 Accessibility Standards.

18 In addition, it is intended that the secretary of state
19 establish polling place classifications and survey
20 procedures to determine whether polling places are
21 accessible to handicapped and elderly voters. The secretary
22 of state should also define the basis for an emergency
23 exemption under section 8, which allows an election
24 administrator to relocate an established polling place
25 within 10 days prior to an election.

1 Finally, it is contemplated that the secretary of state
2 establish procedures to allow an elector to vote on election
3 day by alternative means if he is prevented from voting at
4 his assigned polling place because it is inaccessible.

1 HOUSE BILL NO. 747

2 INTRODUCED BY GOULD, CAMPBELL, HARDING, MCCALLUM,

3 KOLSTAD, JENKINS, VAN VALKENBURG, QUILICI, CONNELLY,

4 MANNING, KEENAN, FRITZ, C. SMITH, VAUGHN, MILES, E. SMITH

5 BY REQUEST OF THE SECRETARY OF STATE

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE SECRETARY
8 OF STATE TO ASSURE POLLING PLACE AND VOTING ACCESSIBILITY
9 FOR HANDICAPPED AND ELDERLY VOTERS; GRANTING RULEMAKING
10 AUTHORITY; ESTABLISHING PROCEDURES FOR DETERMINING POLLING
11 PLACE ACCESSIBILITY; PROVIDING HANDICAPPED AND ELDERLY
12 VOTERS AN ALTERNATIVE MEANS FOR CASTING A BALLOT ON ELECTION
13 DAY IF THEIR POLLING PLACE IS INACCESSIBLE; AND AMENDING
14 SECTIONS 13-2-601, 13-3-105, 13-13-112, AND 13-13-211, MCA."

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

17 NEW SECTION. Section 1. Purpose. The purpose of
18 [sections 1 through 10] is to promote the fundamental right
19 to vote by improving access for handicapped and elderly
20 individuals to polling places. The provisions of [sections 1
21 through 10] acknowledge that, in certain cases, it may not
22 be possible to locate a polling place that meets the
23 standards for accessibility, either because no accessible
24 polling place exists or, if it does, its location in the
25 precinct would require undue travel for a majority of the

1 electors. In those cases when an accessible polling place is
2 not available, [sections 1 through 10] provide handicapped
3 and elderly voters an alternative means for casting a ballot
4 on election day.

5 NEW SECTION. Section 2. Definitions. As used in
6 [sections 1 through 10], unless the context indicates
7 otherwise, the following definitions apply:

8 (1) "Accessible" means accessible to handicapped and
9 elderly individuals for purposes of voting as determined in
10 accordance with standards established by the secretary of
11 state under [section 5].

12 (2) "Elderly" means 65 years of age or older.

13 (3) "Election" means a general, special, or primary
14 election held in an even-numbered year, as provided for in
15 13-1-104(1) and 13-1-107(1).

16 (4) "Handicapped" means having a temporary or
17 permanent physical impairment such as:

18 (a) impaired vision;

19 (b) impaired hearing; or

20 (c) impaired mobility. Individuals having impaired
21 mobility include those who require use of a wheelchair and
22 those who are ambulatory but are physically impaired due to
23 age, disability, or disease.

24 NEW SECTION. Section 3. Duty of secretary of state --
25 rulemaking. (1) Except as provided in [section 4], the

1 secretary of state shall assure that all polling places are
 2 accessible to handicapped and elderly electors on election
 3 day.

4 (2) The secretary of state shall adopt rules to
 5 establish standards that a polling place must meet in order
 6 to be designated accessible under [sections 1 through 10].

7 (3) The secretary of state may adopt any other rules
 8 necessary for implementation of [sections 1 through 10].

9 NEW SECTION. Section 4. Exceptions. [Section 3] does
 10 not apply to a polling place that:

11 (1) is a rural polling place as defined in [section
 12 7];

13 (2) has been granted an emergency exemption as
 14 provided in [section 8]; or

15 (3) is declared exempt under [section 9] because no
 16 accessible polling place is available.

17 NEW SECTION. Section 5. Adoption of standards for
 18 polling place accessibility -- rulemaking authority. The
 19 secretary of state, with advice from election administrators
 20 and handicapped and elderly individuals, shall establish
 21 standards for accessibility of polling places. The
 22 standards, whenever possible, must be consistent with the
 23 standards for accessibility established by the American
 24 National Standards Institute and the Uniform Federal
 25 Accessibility Standards.

1 NEW SECTION. Section 6. Survey of polling places to
 2 determine accessibility -- procedures. (1) Except as
 3 provided in [sections 7 and 8], the election administrator
 4 in each county shall conduct an onsite survey of each
 5 polling place used in an election to determine whether such
 6 polling place meets the standards for accessibility
 7 established under [section 5].

8 (2) Each election administrator shall conduct the
 9 survey in a manner that represents the path of travel an
 10 elector would reasonably be expected to take in order to
 11 reach the polling place on election day.

12 (3) A polling place that has been surveyed and
 13 designated as accessible need not be surveyed again so long
 14 as the conditions of accessibility remain unchanged.

15 NEW SECTION. Section 7. Polling place
 16 classifications. (1) As a result of the survey provided in
 17 [section 6], each polling place must be classified as:

- 18 (a) accessible;
- 19 (b) inaccessible;
- 20 (c) technically inaccessible but usable; or
- 21 (d) rural.

22 (2) An accessible polling place is one that meets the
 23 standards for accessibility established by the secretary of
 24 state under [section 5].

25 (3) An inaccessible polling place is one that does not

1 meet the standards for accessibility and cannot be made
2 accessible through safe, practical, and cost-effective
3 methods.

4 (4) A technically inaccessible but usable polling
5 place is one that does not meet all the standards for
6 accessibility but has been surveyed, evaluated, and
7 certified as being adequate for use as a polling place.
8 Such certification is cause for the secretary of state to
9 grant the polling place an exemption from the standards for
10 accessibility. However, in a future election, the secretary
11 of state may issue an objection to the criteria used for
12 determining that the facility is usable as a polling place.

13 (5) A rural polling place is one that serves less than
14 200 registered electors and is:

15 (a) granted an exemption from the standards for
16 accessibility established under [section 5]; and

17 (b) subject to review and redesignation 45 days prior
18 to an election.

19 (6) A rural designation may not be construed as cause
20 for denying handicapped or elderly electors at a polling
21 place the right to choose an alternative means for casting a
22 ballot on election day as provided in [section 10].

23 NEW SECTION. Section 8. Emergency exemption. (1) The
24 secretary of state shall exempt a polling place from the
25 requirements of [sections 1 through 10] if an emergency

1 occurs within 10 days prior to an election. An emergency is
2 considered to exist if a polling place becomes unavailable
3 by reason of loss of lease, fire, snow, or natural disaster.

4 (2) If an emergency occurs, the election administrator
5 in the county shall designate a new polling place in
6 accordance with the procedure provided in 13-3-105. The new
7 polling place must be considered temporary and must be
8 exempt from the survey procedures established under [section
9 6]. However, such polling place may not be used in a
10 subsequent election unless it is surveyed as required in
11 [section 6].

12 NEW SECTION. Section 9. Exemption if no accessible
13 polling place is available. (1) If an existing polling place
14 has been surveyed and designated as being inaccessible, the
15 election administrator shall make a reasonable effort to
16 locate and survey all potential sites with comparable
17 utility as a polling place.

18 (2) The election administrator shall request in
19 writing to the secretary of state that an inaccessible
20 polling place be exempt from the standards for accessibility
21 if:

22 (a) all potential polling places have been surveyed
23 and it is determined that no accessible polling place is
24 available; and

25 (b) the county cannot safely or reasonably make a

1 polling place temporarily accessible in the area involved.

2 (3) Nothing in this section may require an election
3 administrator to select an accessible facility as a polling
4 place if its location requires excessive travel or imposes
5 other hardships for the majority of qualified electors in
6 the precinct.

7 NEW SECTION. Section 10. Alternative means for
8 casting ballot. (1) The election administrator shall provide
9 handicapped and elderly individuals an alternative means for
10 casting a ballot on election day if they are assigned to an
11 inaccessible polling place. These alternative means for
12 casting a ballot include:

13 (a) delivery of a ballot to the elector as provided in
14 13-13-118;

15 (b) voting by absentee ballot as provided in
16 13-13-222; and

17 (c) prearranged assignment to an accessible polling
18 place within the county.

19 (2) Any handicapped or elderly elector assigned to an
20 inaccessible polling place who desires to vote at an
21 accessible polling place:

22 (a) shall request assignment to an accessible polling
23 place by notifying the election administrator in writing at
24 least 7 days preceding the election;

25 (b) must be assigned to the nearest accessible polling

1 place or technically inaccessible polling place for the
2 purpose of voting in the election;

3 (c) shall sign his name on a special addendum to the
4 official precinct register as required in 13-2-601; and

5 (d) shall receive the same ballot to which he is
6 otherwise entitled.

7 (3) For the purpose of subsection (2), the ballot cast
8 at an alternative polling place must be processed and
9 counted in the same manner as an absentee ballot.

10 Section 11. Section 13-2-601, MCA, is amended to read:

11 "13-2-601. Name on precinct register prima facie
12 evidence of right to vote. (1) An elector may not vote at an
13 election mentioned in this title unless his name appears on
14 election day in the copy of the official precinct register
15 furnished by the election administrator to the election
16 judges. The fact that his name appears in the copy of the
17 precinct register is prima facie evidence of his right to
18 vote.

19 (2) The name of an elector who has been assigned to
20 vote in a precinct other than the precinct in which he is
21 registered, as provided in [section 10], must be printed on
22 a special addendum to the precinct register in a form
23 prescribed by the secretary of state. The fact that an
24 elector's name appears on a special addendum to the precinct
25 register is prima facie evidence of his right to vote in the

1 precinct."

2 Section 12. Section 13-3-105, MCA, is amended to read:

3 "13-3-105. Designation of polling place. (1) The
4 county governing body shall designate the polling place for
5 each precinct no later than 30 days before a primary
6 election. The same polling place shall be used for both the
7 primary and general election if at all possible. Changes may
8 be made by the governing body in designated polling places
9 up to 10 days before an election if a designated polling
10 place is not available. Polling places may be located
11 outside the boundaries of a precinct.

12 (2) Not more than 10 or less than 2 days before an
13 election, the election administrator shall publish in a
14 newspaper of general circulation in the county, a statement
15 of the locations of the precinct polling places. The
16 election administrator shall include in the published notice
17 the accessibility designation for each polling place
18 according to the classification in [section 7]. Notice may
19 also be given as provided in 2-3-105 through 2-3-107.

20 (3) An election administrator may make changes in the
21 location of a polling place if an emergency occurs 10 days
22 or less before an election. Notice shall be posted at both
23 the old and new polling places, and other notice may be
24 given by whatever means available.

25 (4) Any publicly owned building may be used as a

1 polling place. Such building must be furnished at no charge
2 as long as no structural changes are required in order to
3 use the building as a polling place."

4 Section 13. Section 13-13-112, MCA, is amended to
5 read:

6 "13-13-112. Display of instructions for electors. (1)
7 Instructions for electors on how to prepare their ballots or
8 use machines or devices must be posted in each compartment
9 provided for the preparation of ballots and elsewhere in the
10 polling place.

11 (2) The instructions must be in easily read type, 18
12 point or larger, and explain how to:

- 13 (a) obtain ballots for voting;
- 14 (b) prepare ballots for deposit in the ballot box; and
- 15 (c) obtain a new ballot in place of one spoiled by
16 accident.

17 (3) If the instructions for use of the machine or
18 device are printed on the machine or device or are part of a
19 ballot package given each elector, separate instructions
20 need not be posted in the compartment.

21 (4) Official ballots for the precinct, clearly marked
22 "sample" across the face, shall be posted in each booth or
23 compartment and in conspicuous places about the polling
24 place in all precincts where paper ballots are used.
25 Diagrams showing the arrangement of the ballot for that

1 precinct shall be posted in conspicuous places about the
2 polling place in all precincts using machines or devices."

3 Section 14. Section 13-13-211, MCA, is amended to
4 read:

5 "13-13-211. Application of absentee, chronically ill,
6 handicapped, elderly, or physically incapacitated elector
7 for ballot -- special absentee ballot application. (1)
8 Except as provided in 13-2-214, during a period beginning 75
9 days before the day of election and ending at noon on the
10 day before the election, an individual may apply to the
11 election administrator for an absentee ballot if he is:

12 (a) an elector expecting to be absent from the county
13 in which his voting precinct is situated;

14 (b) an elector who is chronically ill or in general
15 ill health;

16 (c) a handicapped or elderly elector who has been
17 assigned to an inaccessible polling place; or

18 (d) an elector who will be unable to go to the polls
19 because of physical incapacity ~~may--apply--to--the--election~~
20 ~~administrator--for--an--absentee--ballot.~~

21 (2) A qualified elector who is prevented from voting
22 at the polls as a result of an illness or health emergency
23 occurring between 5 p.m. on the Friday preceding the
24 election and noon on election day may request to vote by
25 absentee ballot. The election administrator shall honor any

1 such request received up to and including noon on election
2 day. The election administrator is not required to comply
3 with a request by an elector who is absent from the county."

4 NEW SECTION. Section 15. Extension of authority. Any
5 existing authority of the secretary of state to make rules
6 on the subject of the provisions of this act is extended to
7 the provisions of this act.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 747

3 House State Administration Committee

4
5 A statement of intent is required for this bill because
6 it grants the secretary of state authority to adopt rules to
7 assure accessibility at the polling place for handicapped
8 and elderly voters. Such rules must be adopted under the
9 Montana Administrative Procedure Act and must be consistent
10 with the provisions of this act.

11 It is the intent of the legislature that the secretary
12 of state adopt rules to establish standards that a polling
13 place must meet in order to be designated accessible under
14 this act. Wherever possible, these standards should be
15 consistent with the standards established by the American
16 National Standards Institute and the Uniform Federal
17 Accessibility Standards.

18 In addition, it is intended that the secretary of state
19 establish polling place classifications and survey
20 procedures to determine whether polling places are
21 accessible to handicapped and elderly voters. The secretary
22 of state should also define the basis for an emergency
23 exemption under section 8, which allows an election
24 administrator to relocate an established polling place
25 within 10 days prior to an election.

1 Finally, it is contemplated that the secretary of state
2 establish procedures to allow an elector to vote on election
3 day by alternative means if he is prevented from voting at
4 his assigned polling place because it is inaccessible.



1 HOUSE BILL NO. 747

2 INTRODUCED BY GOULD, CAMPBELL, HARDING, MCCALLUM,
 3 KOLSTAD, JENKINS, VAN VALKENBURG, QUILICI, CONNELLY,
 4 MANNING, KEENAN, FRITZ, C. SMITH, VAUGHN, MILES, E. SMITH
 5 BY REQUEST OF THE SECRETARY OF STATE
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE SECRETARY
 8 OF STATE TO ASSURE POLLING PLACE AND VOTING ACCESSIBILITY
 9 FOR HANDICAPPED AND ELDERLY VOTERS; GRANTING RULEMAKING
 10 AUTHORITY; ESTABLISHING PROCEDURES FOR DETERMINING POLLING
 11 PLACE ACCESSIBILITY; PROVIDING HANDICAPPED AND ELDERLY
 12 VOTERS AN ALTERNATIVE MEANS FOR CASTING A BALLOT ON ELECTION
 13 DAY IF THEIR POLLING PLACE IS INACCESSIBLE; AND AMENDING
 14 SECTIONS 13-2-601, 13-3-105, 13-13-112, AND 13-13-211, MCA."
 15

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

17 NEW SECTION. Section 1. Purpose. The purpose of
 18 [sections 1 through 10] is to promote the fundamental right
 19 to vote by improving access for handicapped and elderly
 20 individuals to polling places. The provisions of [sections 1
 21 through 10] acknowledge that, in certain cases, it may not
 22 be possible to locate a polling place that meets the
 23 standards for accessibility, either because no accessible
 24 polling place exists or, if it does, its location in the
 25 precinct would require undue travel for a majority of the

1 electors. In those cases when an accessible polling place is
 2 not available, [sections 1 through 10] provide handicapped
 3 and elderly voters an alternative means for casting a ballot
 4 on election day.

5 NEW SECTION. Section 2. Definitions. As used in
 6 [sections 1 through 10], unless the context indicates
 7 otherwise, the following definitions apply:

8 (1) "Accessible" means accessible to handicapped and
 9 elderly individuals for purposes of voting as determined in
 10 accordance with standards established by the secretary of
 11 state under [section 5].

12 (2) "Elderly" means 65 years of age or older.

13 (3) "Election" means a general, special, or primary
 14 election held in an even-numbered year, as provided for in
 15 13-1-104(1) and 13-1-107(1).

16 (4) "Handicapped" means having a temporary or
 17 permanent physical impairment such as:

18 (a) impaired vision;

19 (b) impaired hearing; or

20 (c) impaired mobility. Individuals having impaired
 21 mobility include those who require use of a wheelchair and
 22 those who are ambulatory but are physically impaired due to
 23 age, disability, or disease.

24 NEW SECTION. Section 3. Duty of secretary of state --
 25 rulemaking. (1) Except as provided in [section 4], the

1 secretary of state shall assure that all polling places are
 2 accessible to handicapped and elderly electors on election
 3 day.

4 (2) The secretary of state shall adopt rules to
 5 establish standards that a polling place must meet in order
 6 to be designated accessible under [sections 1 through 10].

7 (3) The secretary of state may adopt any other rules
 8 necessary for implementation of [sections 1 through 10].

9 NEW SECTION. Section 4. Exceptions. [Section 3] does
 10 not apply to a polling place that:

11 (1) is a rural polling place as defined in [section
 12 7];

13 (2) has been granted an emergency exemption as
 14 provided in [section 8]; or

15 (3) is declared exempt under [section 9] because no
 16 accessible polling place is available.

17 NEW SECTION. Section 5. Adoption of standards for
 18 polling place accessibility -- rulemaking authority. The
 19 secretary of state, with advice from election administrators
 20 and handicapped and elderly individuals, shall establish
 21 standards for accessibility of polling places. The
 22 standards, whenever possible, must be consistent with the
 23 standards for accessibility established by the American
 24 National Standards Institute and the Uniform Federal
 25 Accessibility Standards.

1 NEW SECTION. Section 6. Survey of polling places to
 2 determine accessibility -- procedures. (1) Except as
 3 provided in [sections 7 and 8], the election administrator
 4 in each county shall conduct an onsite survey of each
 5 polling place used in an election to determine whether such
 6 polling place meets the standards for accessibility
 7 established under [section 5].

8 (2) Each election administrator shall conduct the
 9 survey in a manner that represents the path of travel an
 10 elector would reasonably be expected to take in order to
 11 reach the polling place on election day.

12 (3) A polling place that has been surveyed and
 13 designated as accessible need not be surveyed again so long
 14 as the conditions of accessibility remain unchanged.

15 NEW SECTION. Section 7. Polling place
 16 classifications. (1) As a result of the survey provided in
 17 [section 6], each polling place must be classified as:

- 18 (a) accessible;
- 19 (b) inaccessible;
- 20 (c) technically inaccessible but usable; or
- 21 (d) rural.

22 (2) An accessible polling place is one that meets the
 23 standards for accessibility established by the secretary of
 24 state under [section 5].

25 (3) An inaccessible polling place is one that does not

HOUSE BILL NO. 747

INTRODUCED BY GOULD, CAMPBELL, HARDING, MCCALLUM, KOLSTAD, JENKINS, VAN VALKENBURG, QUILICI, CONNELLY, MANNING, KEENAN, FRITZ, C. SMITH, VAUGHN, MILES, E. SMITH BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE SECRETARY OF STATE TO ASSURE POLLING PLACE AND VOTING ACCESSIBILITY FOR HANDICAPPED AND ELDERLY VOTERS; GRANTING RULEMAKING AUTHORITY; ESTABLISHING PROCEDURES FOR DETERMINING POLLING PLACE ACCESSIBILITY; PROVIDING HANDICAPPED AND ELDERLY VOTERS AN ALTERNATIVE MEANS FOR CASTING A BALLOT ON ELECTION DAY IF THEIR POLLING PLACE IS INACCESSIBLE; AND AMENDING SECTIONS 13-2-601, 13-3-105, 13-13-112, AND 13-13-211, MCA."

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

NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through 10] is to promote the fundamental right to vote by improving access for handicapped and elderly individuals to polling places. The provisions of [sections 1 through 10] acknowledge that, in certain cases, it may not be possible to locate a polling place that meets the standards for accessibility, either because no accessible polling place exists or, if it does, its location in the precinct would require undue travel for a majority of the

electors. In those cases when an accessible polling place is not available, [sections 1 through 10] provide handicapped and elderly voters an alternative means for casting a ballot on election day.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 10], unless the context indicates otherwise, the following definitions apply:

(1) "Accessible" means accessible to handicapped and elderly individuals for purposes of voting as determined in accordance with standards established by the secretary of state under [section 5].

(2) "Elderly" means 65 years of age or older.

(3) "Election" means a general, special, or primary election held in an even-numbered year, as provided for in 13-1-104(1) and 13-1-107(1).

(4) "Handicapped" means having a temporary or permanent physical impairment such as:

(a) impaired vision;

(b) impaired hearing; or

(c) impaired mobility. Individuals having impaired mobility include those who require use of a wheelchair and those who are ambulatory but are physically impaired due to age, disability, or disease.

NEW SECTION. Section 3. Duty of secretary of state -- rulemaking. (1) Except as provided in [section 4], the



1 secretary of state shall assure that all polling places are
 2 accessible to handicapped and elderly electors on election
 3 day.

4 (2) The secretary of state shall adopt rules to
 5 establish standards that a polling place must meet in order
 6 to be designated accessible under [sections 1 through 10].

7 (3) The secretary of state may adopt any other rules
 8 necessary for implementation of [sections 1 through 10].

9 NEW SECTION. Section 4. Exceptions. [Section 3] does
 10 not apply to a polling place that:

11 (1) is a rural polling place as defined in [section
 12 7];

13 (2) has been granted an emergency exemption as
 14 provided in [section 8]; or

15 (3) is declared exempt under [section 9] because no
 16 accessible polling place is available.

17 NEW SECTION. Section 5. Adoption of standards for
 18 polling place accessibility -- rulemaking authority. The
 19 secretary of state, with advice from election administrators
 20 and handicapped and elderly individuals, shall establish
 21 standards for accessibility of polling places. The
 22 standards, whenever possible, must be consistent with the
 23 standards for accessibility established by the American
 24 National Standards Institute and the Uniform Federal
 25 Accessibility Standards.

1 NEW SECTION. Section 6. Survey of polling places to
 2 determine accessibility -- procedures. (1) Except as
 3 provided in [sections 7 and 8], the election administrator
 4 in each county shall conduct an onsite survey of each
 5 polling place used in an election to determine whether such
 6 polling place meets the standards for accessibility
 7 established under [section 5].

8 (2) Each election administrator shall conduct the
 9 survey in a manner that represents the path of travel an
 10 elector would reasonably be expected to take in order to
 11 reach the polling place on election day.

12 (3) A polling place that has been surveyed and
 13 designated as accessible need not be surveyed again so long
 14 as the conditions of accessibility remain unchanged.

15 NEW SECTION. Section 7. Polling place
 16 classifications. (1) As a result of the survey provided in
 17 [section 6], each polling place must be classified as:

18 (a) accessible;

19 (b) inaccessible;

20 (c) technically inaccessible but usable; or

21 (d) rural.

22 (2) An accessible polling place is one that meets the
 23 standards for accessibility established by the secretary of
 24 state under [section 5].

25 (3) An inaccessible polling place is one that does not

1 precinct."

2 Section 12. Section 13-3-105, MCA, is amended to read:

3 "13-3-105. Designation of polling place. (1) The
4 county governing body shall designate the polling place for
5 each precinct no later than 30 days before a primary
6 election. The same polling place shall be used for both the
7 primary and general election if at all possible. Changes may
8 be made by the governing body in designated polling places
9 up to 10 days before an election if a designated polling
10 place is not available. Polling places may be located
11 outside the boundaries of a precinct.

12 (2) Not more than 10 or less than 2 days before an
13 election, the election administrator shall publish in a
14 newspaper of general circulation in the county, a statement
15 of the locations of the precinct polling places. The
16 election administrator shall include in the published notice
17 the accessibility designation for each polling place
18 according to the classification in [section 7]. Notice may
19 also be given as provided in 2-3-105 through 2-3-107.

20 (3) An election administrator may make changes in the
21 location of a polling place if an emergency occurs 10 days
22 or less before an election. Notice shall be posted at both
23 the old and new polling places, and other notice may be
24 given by whatever means available.

25 (4) Any publicly owned building may be used as a

1 polling place. Such building must be furnished at no charge
2 as long as no structural changes are required in order to
3 use the building as a polling place."

4 Section 13. Section 13-13-112, MCA, is amended to
5 read:

6 "13-13-112. Display of instructions for electors. (1)
7 Instructions for electors on how to prepare their ballots or
8 use machines or devices must be posted in each compartment
9 provided for the preparation of ballots and elsewhere in the
10 polling place.

11 (2) The instructions must be in easily read type, 18
12 point or larger, and explain how to:

13 (a) obtain ballots for voting;

14 (b) prepare ballots for deposit in the ballot box; and

15 (c) obtain a new ballot in place of one spoiled by
16 accident.

17 (3) If the instructions for use of the machine or
18 device are printed on the machine or device or are part of a
19 ballot package given each elector, separate instructions
20 need not be posted in the compartment.

21 (4) Official ballots for the precinct, clearly marked
22 "sample" across the face, shall be posted in each booth or
23 compartment and in conspicuous places about the polling
24 place in all precincts where paper ballots are used.
25 Diagrams showing the arrangement of the ballot for that

1 precinct shall be posted in conspicuous places about the
 2 polling place in all precincts using machines or devices."

3 Section 14. Section 13-13-211, MCA, is amended to
 4 read:

5 "13-13-211. Application of absentee, chronically ill,
 6 handicapped, elderly, or physically incapacitated elector
 7 for ballot -- special absentee ballot application. (1)
 8 Except as provided in 13-2-214, during a period beginning 75
 9 days before the day of election and ending at noon on the
 10 day before the election, an individual may apply to the
 11 election administrator for an absentee ballot if he is:

12 (a) an elector expecting to be absent from the county
 13 in which his voting precinct is situated;

14 (b) an elector who is chronically ill or in general
 15 ill health;

16 (c) a handicapped or elderly elector who has been
 17 assigned to an inaccessible polling place; or

18 (d) an elector who will be unable to go to the polls
 19 because of physical incapacity ~~may--apply--to--the--election~~
 20 ~~administrator-for-an-absentee-ballot.~~

21 (2) A qualified elector who is prevented from voting
 22 at the polls as a result of an illness or health emergency
 23 occurring between 5 p.m. on the Friday preceding the
 24 election and noon on election day may request to vote by
 25 absentee ballot. The election administrator shall honor any

1 such request received up to and including noon on election
 2 day. The election administrator is not required to comply
 3 with a request by an elector who is absent from the county."

4 NEW SECTION. Section 15. Extension of authority. Any
 5 existing authority of the secretary of state to make rules
 6 on the subject of the provisions of this act is extended to
 7 the provisions of this act.

-End-