

## 1 HOUSE BILL NO. 106

2 INTRODUCED BY HARPER

3 BY REQUEST OF THE SECRETARY OF STATE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ALL QUALIFIED ELECTORS TO VOTE BY ABSENTEE  
6 BALLOT; GENERALLY CLARIFYING ABSENTEE BALLOT AND VOTING PROVISIONS; AMENDING SECTIONS  
7 13-13-201, 13-13-212, 13-13-214, 13-13-225, 13-13-230, 13-13-232, AND 13-13-271, MCA; AND  
8 REPEALING SECTIONS 13-13-211, 13-13-213, 13-13-222, AND 13-13-229, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 **Section 1.** Section 13-13-201, MCA, is amended to read:

13 **"13-13-201. Voting by absentee ballot -- ~~qualifications~~ application -- delivery.** A (1) Any qualified  
14 registered elector is entitled to vote by absentee ballot, as provided in this part, ~~if the elector:~~

15 ~~(1) expects to be absent from the county or precinct and unable to vote in person at the time of~~  
16 ~~holding the election;~~

17 ~~(2) is physically incapacitated and unable to go to the polls on election day;~~

18 ~~(3) suffers from chronic illness or general ill health; or~~

19 ~~(4) is prevented from voting at the polls as a result of an illness or health emergency occurring~~  
20 ~~between 5 p.m. on the Friday preceding the election and noon on election day. Such health emergency~~  
21 ~~must arise from unforeseen circumstances that require the elector to seek health care or medical assistance~~

22 (2) An elector wishing to vote by absentee ballot shall apply in writing to the election administrator  
23 of the elector's county of residence. Application must be made during a period beginning 75 days before  
24 election day and ending at noon the day before the election. Application may be made in person, by mail,  
25 or by facsimile transmission and must be signed by the applicant. An elector in the United States service  
26 may use the federal postcard application and registration procedure provided pursuant to 13-2-212.

27 (3) The election administrator shall compare the signature on the application with the applicant's  
28 signature on the elector's voter registration card. If convinced that the individual making the application is  
29 the same as the one whose name appears on the registration card, the election administrator shall deliver  
30 the ballot to the elector in person or as otherwise provided in 13-13-214.

1           (4) (a) As soon as the official ballots are available, an elector who has applied for and receives an  
 2 absentee ballot under this section may vote before the election administrator.

3           (b) Voting in this manner is subject to the provisions of this chapter.

4           (c) If a ballot is marked before the election administrator, the election administrator shall deal with  
 5 the ballot in the same manner as if it had come by mail."

6  
 7           **Section 2.** Section 13-13-212, MCA, is amended to read:

8           **"13-13-212. Application for absentee ballot because of health emergency -- voting before special**  
 9 **election board.** (1) ~~Application for absentee ballots shall be made by a written request signed by the~~  
 10 ~~applicant and addressed to or transmitted by facsimile to the election administrator of the applicant's~~  
 11 ~~county of residence.~~

12           ~~(2) Application for an absentee ballot may be made by any elector in the United States service by~~  
 13 ~~the federal post card application or by any written request signed by the applicant and addressed to or~~  
 14 ~~transmitted by facsimile to the election administrator of the applicant's county of residence.~~

15           ~~(3) If an elector requests an absentee ballot because of a sudden illness or health emergency,~~  
 16 the An elector who is unable to vote at the polling place because of a sudden illness or health emergency  
 17 occurring between 5 p.m. on the Friday preceding the election and noon on election day may vote by  
 18 absentee ballot. The election administrator is not required to comply with a request by an elector who is  
 19 absent from the county.

20           (2) (a) An application for an absentee ballot under this section may must be made by written  
 21 request signed by the elector. The elector may sign the application for an absentee ballot at the time the  
 22 ballot is delivered in person by the special absentee election board provided for in 13-13-225. Such

23           (b) The elector may request by telephone, facsimile transmission, or other means to have a ballot  
 24 and application personally delivered to him by the special absentee election board at his the elector's place  
 25 of confinement, hospitalization, or residence within the county. Such a request may be made no later than  
 26 noon on election day

27           (3) The manner of voting by absentee ballot under this section must be the same as provided in  
 28 13-13-221, except that the elector shall hand the marked ballot in the sealed envelope to the board, and  
 29 the board shall deliver the sealed envelope to the election administrator or to the election judges of the  
 30 precinct in which the elector is registered.

1           (4) An absentee ballot cast by a qualified elector pursuant to this section may not be rejected by  
 2 the election administrator if the ballot was in the possession of the board before the time designated for  
 3 the closing of the polls.

4           (5) An elector who needs assistance in marking the ballot because of physical incapacity or inability  
 5 to read or write may receive assistance from the board. Assistance given pursuant to this section must be  
 6 provided in substantially the same manner as required in 13-13-119.

7  
 8           **Section 3.** Section 13-13-214, MCA, is amended to read:

9           **"13-13-214. Mailing ballot to elector.** (1) (a) Except as provided in ~~13-13-213~~ 13-13-212 and in  
 10 subsection (1)(b) of this section, as soon as the official ballots are printed, the election administrator shall  
 11 ~~send~~ by mail, postage prepaid, to each elector from whom the election administrator has received a valid  
 12 application whatever official ballots are necessary. Ballots must be sent immediately to electors submitting  
 13 valid requests after the official ballots are printed.

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

16           (i) the elector has designated the individual, either by a signed letter or by making the designation  
 17 on the application form in a manner prescribed by the secretary of state;

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

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

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

23           (2) The election administrator shall enclose with the ballots a self-addressed envelope for the return  
 24 of the ballots. An affirmation in the form prescribed by the secretary of state must be printed on the back  
 25 of the envelope.

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

28           (4) Both the envelope in which the ballot is mailed to an elector in the United States service and  
 29 the return envelope must have printed across the face the information and graphics and be of the color  
 30 prescribed by the secretary of state consistent with the regulations established by the federal election

1 commission, the U.S. postal service, or other federal agency.

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

5 (6) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must  
6 include use of the envelope for unvoted ballots. The instructions must include information concerning the  
7 type or types of writing instruments that may be used to mark the absentee ballot. The election  
8 administrator shall include a voter information pamphlet with the instructions if:

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

10 (b) the elector is out of the state or will be out of the state at the time of the election; and

11 (c) the elector requests a voter information pamphlet.

12 (7) The return envelope must be self-addressed to the election administrator."  
13

14 **Section 4.** Section 13-13-225, MCA, is amended to read:

15 "**13-13-225. Special absentee election boards for electors with health emergencies -- members**  
16 **-- appointment.** (1) The election administrator shall designate and appoint a number of special absentee  
17 election boards as needed to serve in various places to deliver ballots to electors who are entitled to vote  
18 by absentee ballot under ~~13-13-201(4)~~ 13-13-212.

19 (2) In a partisan election, each ~~special absentee election~~ board shall consist of two members, one  
20 from each of the two political parties receiving the highest votes in the state during the last preceding  
21 general election. Board members must reside in the county in which they serve.

22 (3) ~~No~~ A member of a ~~special absentee election~~ board may not be a candidate or a spouse,  
23 ascendant, descendant, brother, or sister of a candidate or of a candidate's spouse or the spouse of any  
24 one of these if the candidate's name appears on a ballot in the county."  
25

26 **Section 5.** Section 13-13-230, MCA, is amended to read:

27 "**13-13-230. Authorization to increase county mill levy.** Each county may levy an amount not  
28 exceeding 1 mill as ~~may be~~ necessary to finance the additional cost of administering a special absentee  
29 election board program pursuant to ~~13-13-225 through 13-13-229~~ 13-13-212. ~~Such~~ The mill levy may not  
30 be included as part of any existing mill levy or special mill levy assessed by the county. The amount of any

1 mill levy adopted under this section must be reasonably related to the actual cost of providing services as  
 2 required by ~~13-13-225 through 13-13-229~~ pursuant to 13-13-212."

3  
 4 **Section 6.** Section 13-13-232, MCA, is amended to read:

5 "13-13-232. **Delivery of ballots to election judges -- ballots to be rejected.** (1) If ~~the~~ an absentee  
 6 ballot is received ~~prior to~~ before delivery of the official ballots to the election judges, the election  
 7 administrator shall deliver the envelope to the judges at the same time the ballots are delivered.

8 (2) If absentee ballots are received after the ballots are delivered to the election judges but ~~prior~~  
 9 to before the close of the polls, the election administrator shall immediately deliver the envelopes to the  
 10 judges.

11 (3) If the election administrator receives an absentee ballot for which an application or request was  
 12 not signed and received as required by ~~13-13-211~~ 13-13-201 or 13-13-212(2)(a), or if an absentee ballot  
 13 is received by the election administrator after the close of the polls and was not ~~issued to an elector~~ in the  
 14 possession of a special absentee election board member pursuant to ~~13-13-201(4)~~ 13-13-212(4), the  
 15 election administrator shall endorse upon the elector's envelope the date and exact time of receipt and the  
 16 words "to be rejected". Absentee ballots so endorsed ~~shall~~ must be retained by the election administrator  
 17 and placed with the proper records when they are returned to ~~him~~ the election administrator."

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 19 **Section 7.** Section 13-13-271, MCA, is amended to read:

20 "13-13-271. **Federal write-in absentee ballot -- qualifications.** (1) An elector qualified by 13-2-211  
 21 who fears ~~his~~ the elector's regular absentee ballot might not arrive in time to vote and return to the election  
 22 administrator of the county of ~~his~~ residence and registration may also vote a federal write-in absentee  
 23 ballot.

24 (2) The federal write-in absentee ballot is available to military personnel and civilians overseas  
 25 through the same source that provides federal post card application forms and is only valid for federal  
 26 elections.

27 (3) Except as provided in 13-2-212(3), the elector shall apply for a regular absentee ballot as  
 28 provided in ~~13-13-212(2)~~ 13-13-201 not less than 30 days before the general election."

29  
 30 **NEW SECTION. Section 8. Repealer.** Sections 13-13-211, 13-13-213, 13-13-222, and 13-13-229,

1 MCA, are repealed.

2

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0106, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill allowing all qualified electors to vote by absentee ballot, and generally clarifying absentee ballot and voting provisions.

FISCAL IMPACT:

Passage of HB106 will have no fiscal impact on the state.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

There would be little to no effect on county or other local revenue or expenditures.

Dave Lewis 1-11-97  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

Hal Harper 1/13  
HAL HARPER, PRIMARY SPONSOR      DATE

Fiscal Note for HB0106, as introduced

**HB 106**