

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-0535.01 Dan Cartin

HOUSE BILL 09-1205

HOUSE SPONSORSHIP

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House Committees

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Appropriations

Senate Committees

State, Veterans & Military Affairs

SENATE
Am ended 3rd Reading
April 23, 2009

A BILL FOR AN ACT

101 **CONCERNING VOTING BY MEMBERS OF THE ARMED FORCES SERVING**
102 **OUTSIDE THE UNITED STATES.**

SENATE
2nd Reading Unam ended
April 22, 2009

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Allows an elector to register to vote by emergency registration if the elector is a resident of this state and was an absent uniformed services elector serving outside the United States who was discharged from active duty or service within a certain time prior to the election, moved to a new county of residence after the close of the registration books, and has not and will not cast a vote in the election in any other county or state.

Requires the secretary of state to develop and implement an

HOUSE
3rd Reading Unam ended
March 24, 2009

HOUSE
Am ended 2nd Reading
March 23, 2009

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

internet-based voting pilot program to facilitate voting by absent uniformed services electors serving outside the United States commencing with the 2010 general election. Specifies that the internet-based voting system developed for use in the pilot program shall:

- ! Transmit encrypted information over a secure network;
- ! Provide for secure identification and authentication of the information transmitted on the system, each election official, the equipment utilized by the secretary of state, and each election official in the conduct of elections via the internet;
- ! Protect the privacy, anonymity, and integrity of each elector's ballot;
- ! Prevent the casting of multiple ballots via the internet in an election by any elector;
- ! Provide protection against abuse, including tampering, fraudulent use, and illegal manipulation by electors, election officials, or any other individual or group; and
- ! Provide uninterrupted and reliable internet availability for the purpose of casting votes via the internet.

Requires the secretary of state to implement the system so that each designated or coordinated election official of a county or other political subdivision participating in the pilot program shall:

- ! Assure that each elector serving outside the United States who logs in to vote via the internet is eligible and registered to vote;
- ! Verify that each elector who logs in to vote via the internet is the same person who is registered and qualified to vote;
- ! Verify that the votes of the electors transmitted to such election officials via the internet are private and secure and have not been viewed or altered by sites that lie between the voting location and the vote-counting destination; and
- ! Verify that all votes cast via the internet were indeed counted and attributed correctly to the elector who cast the vote.

Authorizes the secretary of state to establish procedures necessary to implement the act. Creates the internet-based voting pilot program fund in the state treasury to provide for the direct and indirect costs associated with implementing the program. Specifies that the fund shall consist of gifts, grants, and donations from private or public sources. Requires that sufficient gifts, grants, and donations are obtained to cover the costs of implementing the system prior to that implementation by the department of state.

Requires a mail-in ballot to be delivered, mailed, or provided by electronic means to an absent uniformed services elector, a nonresident overseas elector, or a resident overseas elector not later than 30 days

1 (1) SUBJECT TO THE AVAILABILITY OF FUNDS PURSUANT TO SUBSECTION
2 (4) OF THIS SECTION, THE SECRETARY OF STATE, IN COORDINATION WITH
3 THE COUNTY CLERK AND RECORDERS, SHALL DEVELOP AN
4 INTERNET-BASED VOTING PILOT PROGRAM TO FACILITATE VOTING BY
5 ABSENT UNIFORMED SERVICES ELECTORS SERVING OUTSIDE THE UNITED
6 STATES COMMENCING WITH THE GENERAL ELECTION HELD IN 2012. THE
7 SECRETARY OF STATE SHALL SELECT ONE OR MORE POLITICAL
8 SUBDIVISIONS TO PARTICIPATE IN THE PILOT PROGRAM. THE
9 INTERNET-BASED VOTING SYSTEM DEVELOPED FOR USE BY POLITICAL
10 SUBDIVISIONS THAT PARTICIPATE IN THE PILOT PROGRAM SHALL:

11 (a) TRANSMIT ENCRYPTED INFORMATION OVER A SECURE
12 NETWORK;

13 (b) PROVIDE FOR SECURE IDENTIFICATION AND AUTHENTICATION
14 OF:

15 (I) ANY INFORMATION TRANSMITTED ON THE SYSTEM; AND

16 (II) EACH DESIGNATED OR COORDINATED ELECTION OFFICIAL OF
17 A COUNTY OR POLITICAL SUBDIVISION AND THE SERVERS OF SUCH
18 OFFICIALS AND ALL OTHER RELATED ELECTRONIC EQUIPMENT BEING USED
19 BY THE SECRETARY OF STATE AND EACH OFFICIAL IN THE CONDUCT OF
20 ELECTIONS VIA THE INTERNET;

21 (c) PROTECT THE PRIVACY, ANONYMITY, AND INTEGRITY OF EACH
22 ELECTOR'S BALLOT;

23 (d) PREVENT THE CASTING OF MULTIPLE BALLOTS VIA THE
24 INTERNET IN AN ELECTION BY EACH ELECTOR;

25 (e) PROVIDE PROTECTION AGAINST ABUSE, INCLUDING TAMPERING,
26 FRAUDULENT USE, AND ILLEGAL MANIPULATION BY ELECTORS, ELECTION
27 OFFICIALS, OR ANY OTHER INDIVIDUAL OR GROUP; AND

1 (f) PROVIDE UNINTERRUPTED AND RELIABLE INTERNET
2 AVAILABILITY FOR THE PURPOSE OF CASTING VOTES VIA THE INTERNET BY
3 THE ELECTORS.

4 (2) THE SECRETARY OF STATE SHALL IMPLEMENT THE
5 INTERNET-BASED VOTING SYSTEM SO THAT EACH DESIGNATED OR
6 COORDINATED ELECTION OFFICIAL OF A COUNTY OR OTHER POLITICAL
7 SUBDIVISION PARTICIPATING IN THE PILOT PROGRAM SHALL:

8 (a) ASSURE THAT EACH ABSENT UNIFORMED SERVICES ELECTOR
9 SERVING OUTSIDE THE UNITED STATES WHO LOGS IN TO VOTE VIA THE
10 INTERNET IS ELIGIBLE AND REGISTERED TO VOTE;

11 (b) VERIFY THAT EACH ELECTOR WHO LOGS IN TO VOTE VIA THE
12 INTERNET IS THE SAME PERSON WHO IS REGISTERED AND QUALIFIED TO
13 VOTE;

14 (c) VERIFY THAT THE VOTES OF THE ELECTORS TRANSMITTED TO
15 THE ELECTION OFFICIALS VIA THE INTERNET ARE PRIVATE AND SECURE
16 AND HAVE NOT BEEN VIEWED OR ALTERED BY SITES THAT LIE BETWEEN
17 THE VOTING LOCATION AND THE VOTE-COUNTING DESTINATION;

18 (d) VERIFY THAT ALL VOTES CAST VIA THE INTERNET BY ELECTORS
19 WERE CAST BY 7 P.M. MOUNTAIN STANDARD TIME ON THE DAY OF THE
20 ELECTION; AND

21 (e) VERIFY THAT ALL VOTES CAST VIA THE INTERNET BY ELECTORS
22 WERE INDEED COUNTED AND ATTRIBUTED CORRECTLY TO THE ELECTOR
23 WHO CAST THE VOTE.

24 (3) THE SECRETARY OF STATE MAY BY RULE PROMULGATED IN
25 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., ESTABLISH
26 PROCEDURES NECESSARY TO IMPLEMENT THIS ARTICLE.

27 (4) THERE IS HEREBY CREATED IN THE STATE TREASURY THE

1 INTERNET-BASED VOTING PILOT PROGRAM FUND TO PROVIDE FOR THE
2 DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS
3 ARTICLE. THE FUND SHALL CONSIST OF GIFTS, GRANTS, AND DONATIONS
4 TO THE FUND FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
5 THIS ARTICLE. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH
6 GIFTS, GRANTS, AND DONATIONS SHALL BE TRANSMITTED TO THE STATE
7 TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. MONEYS IN THE
8 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
9 ASSEMBLY TO THE DEPARTMENT OF STATE FOR THE PURPOSES SPECIFIED
10 IN THIS ARTICLE. ANY UNEXPENDED AND UNENCUMBERED MONEYS
11 REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN
12 IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR
13 ANY OTHER FUND.

14 (5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (1), (2),
15 AND (3) OF THIS SECTION, THE DEPARTMENT OF STATE SHALL NOT
16 IMPLEMENT THE INTERNET-BASED VOTING SYSTEM UNTIL SUFFICIENT
17 GIFTS, GRANTS, AND DONATIONS ARE OBTAINED TO COVER THE COSTS OF
18 IMPLEMENTING THE SYSTEM.

19 **SECTION 3.** 1-8-103.5 (1) and (2) (a), Colorado Revised
20 Statutes, are amended to read:

21 **1-8-103.5. Voting by persons residing overseas and military**
22 **personnel - definitions.** (1) (a) The designated or coordinated election
23 official of a county or other political subdivision that meets the
24 requirements of the rules promulgated by the secretary of state pursuant
25 to subsection (3) of this section shall provide a mail-in ballot by
26 electronic means to an eligible elector who is an absent uniformed
27 services elector, a nonresident overseas elector, or a resident overseas

1 elector, as defined in section 1-2-208 (2.5), if the elector timely filed a
2 mail-in ballot application with the designated or coordinated election
3 official requesting that the mail-in ballot be sent by electronic means.

4 (b) A MAIL-IN BALLOT SHALL BE PROVIDED BY THE SAME
5 ELECTRONIC MEANS AVAILABLE UNDER PARAGRAPH (a) OF THIS
6 SUBSECTION (1) TO AN ABSENT UNIFORMED SERVICES ELECTOR SERVING
7 OUTSIDE THE UNITED STATES NOT LATER THAN THIRTY DAYS BEFORE THE
8 ELECTION IF THE ELECTOR:

9 (I) FILED A MAIL-IN BALLOT APPLICATION OR HAS BEEN PLACED ON
10 THE PERMANENT MAIL-IN VOTER LIST PURSUANT TO SECTION 1-8-104.5 (2)
11 NOT LATER THAN THIRTY-FIVE DAYS BEFORE SUCH ELECTION; AND

12 (II) REQUESTED THAT THE MAIL-IN BALLOT BE SENT BY
13 ELECTRONIC MEANS.

14 (2) (a) The eligible elector may return the voted ballot to the
15 designated or coordinated election official by electronic means. The
16 returned ballot shall be counted if it arrives in the office of the designated
17 or coordinated election official ~~by 7 p.m. on election day~~ NO LATER THAN
18 THE CLOSE OF BUSINESS ON THE EIGHTH DAY FOLLOWING THE DAY OF THE
19 ELECTION, SO LONG AS THE BALLOT IS TRANSMITTED BY ELECTRONIC
20 MEANS BY 7 P.M. MOUNTAIN STANDARD TIME ON THE DAY OF THE
21 ELECTION. When the ballot is received by the designated or coordinated
22 election official, a bipartisan team of judges shall duplicate the ballot, and
23 the ballot shall be counted as all other mail-in ballots. The judges who
24 duplicate the ballot shall not reveal to any other person how the elector
25 has cast his or her ballot.

26 **SECTION 4.** 1-8-111 (1), Colorado Revised Statutes, is amended
27 to read:

1 **1-8-111. Delivery of mail-in ballot and replacement mail-in**
2 **ballots.** (1) (a) The mail-in ballot and other materials shall be delivered
3 or mailed to the elector within seventy-two hours after the receipt of the
4 application, if the official ballots are then printed, or, if not then printed,
5 within seventy-two hours after the printed ballots are delivered to the
6 designated election official. If the mail-in ballot and other materials are
7 mailed, the envelope shall be marked "DO NOT FORWARD" or by any
8 other similar statement that is in accordance with United States postal
9 service regulations.

10 (b) A MAIL-IN BALLOT SHALL BE DELIVERED OR MAILED TO AN
11 ABSENT UNIFORMED SERVICES ELECTOR SERVING OUTSIDE THE UNITED
12 STATES NOT LATER THAN THIRTY DAYS BEFORE THE ELECTION IF THE
13 ELECTOR HAS APPLIED FOR A MAIL-IN BALLOT OR HAS BEEN PLACED ON
14 THE PERMANENT MAIL-IN VOTER LIST PURSUANT TO SECTION 1-8-104.5 (2)
15 NOT LATER THAN THIRTY-FIVE DAYS BEFORE SUCH ELECTION.

16 **SECTION 5.** 1-8-113 (1) (a), Colorado Revised Statutes, is
17 amended to read:

18 **1-8-113. Manner of mail-in voting - first-time voters casting**
19 **a mail-in ballot after having registered by mail to vote.**

20 (1) (a) (I) Any eligible elector applying for and receiving a mail-in ballot,
21 in casting the ballot, shall make and subscribe to the self-affirmation on
22 the return envelope. The elector shall then mark the ballot, fold the ballot
23 or insert the ballot card in the special envelope provided for the purpose
24 so as to conceal the marking, deposit it in the return envelope, enclose
25 identification if required by subsection (3) of this section, and seal the
26 envelope securely. The envelope may be delivered personally or mailed
27 by the elector to the designated election official issuing the ballot or

1 delivered personally by the elector during the time early voting is made
2 available pursuant to section 1-8-202 or on election day to an early voters'
3 polling place in the county in which the elector is registered to vote.
4 Alternatively, an elector may deliver the ballot to any person of the
5 elector's own choice or to any duly authorized agent of the designated
6 election official for mailing or personal delivery to the designated election
7 official; except that no one person other than a duly authorized agent of
8 the designated election official may receive more than five mail-in ballots
9 in any election for mailing or delivery to the designated election official.
10 EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), all
11 envelopes containing mail-in ballots shall be in the hands of the
12 designated election official no later than 7 p.m. on the day of the election.
13 Mail-in envelopes received after 7 p.m. on the day of the election but
14 postmarked on or before the day of the election will remain sealed and
15 uncounted, but the elector's registration record will not be canceled for
16 failure to vote in a general election.

17 (II) ALL ENVELOPES CONTAINING MAIL-IN BALLOTS CAST BY 7 P.M.
18 MOUNTAIN STANDARD TIME ON THE DAY OF THE ELECTION BY ABSENT
19 UNIFORMED SERVICES ELECTORS SERVING OUTSIDE THE UNITED STATES
20 SHALL BE IN THE HANDS OF THE DESIGNATED ELECTION OFFICIAL NO LATER
21 THAN THE CLOSE OF BUSINESS ON THE EIGHTH DAY FOLLOWING THE DAY
22 OF THE ELECTION.

23 **SECTION 6. Act subject to petition - effective date.** This act
24 shall take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly that is
26 allowed for submitting a referendum petition pursuant to article V,
27 section 1 (3) of the state constitution, (August 4, 2009, if adjournment

1 sine die is on May 6, 2009); except that, if a referendum petition is filed
2 against this act or an item, section, or part of this act within such period,
3 then the act, item, section, or part, if approved by the people, shall take
4 effect on the date of the official declaration of the vote thereon by
5 proclamation of the governor.