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# Montana Association of Counties

*Serving Montana Counties Since 1909*

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July 24, 2020

Honorable Steve Bullock  
Office of the Governor  
P.O. Box 200801  
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Governor Bullock,

We applaud your efforts and leadership in issuing guidance and directives aimed at mitigating public exposure to COVID-19 over the last several months. One of those directives provided for measures to implement the June Primary Election safely, which allowed for counties to conduct the election via mail ballot. MACo and the Montana Association of Clerk & Records/Election Administrators (MACR) are in agreement that putting in place the option for the Primary Election to be all-mail ballot ensured that Montana could provide a safe and efficient election for voters, poll workers, candidates, and county employees during the early stages of the pandemic.

Since the directive, we watched as other states who opted to conduct their Primary Elections via the polls suffer with not enough judges, in person-crowding, voter confusion, delayed results, and worst of all, we saw spread of the coronavirus linked to the elections. Montana, on the other hand, provided clear instructions to voters, realized higher turnout than usual, and enjoyed timely results reporting.

As the COVID-19 situation in Montana continues to escalate, MACR is requesting that the Governor's Office implement a directive providing for the option to conduct the General Election via mail ballot. In reviewing the Primary Election, MACR has some suggestions to build upon those efforts made in June to enhance a possible mail ballot General Election. We hope the pages that follow are helpful in making any future decisions.

The information we have compiled is separated into the following sections: 1.) Successes; 2.) Where Improvements Can be Made; 3.) Ethical Concerns; 4.) Undeliverable Ballots at Universities 5.) Reservation Counties; 6.) Helping Voters with Disabilities; 7.) Timeline; 8.) Conclusion.

## **1. SUCCESSES: 2020 ALL-MAIL BALLOT PRIMARY ELECTION**

The 2020 Primary Election was successful, with a 10% increased rate-of-return. Conducting the election via mail ballot, while not "easier" for election offices, was streamlined, accurate, and as safe as possible under the current pandemic. Most Montana counties have about 14 years of experience in conducting mail ballot elections; so the decision to conduct the Primary Election via mail ballot was a proactive approach that showcased Montana in a very good light, particularly in comparison to several other states.

Election results were reported much earlier, which was due to several factors: the entire environment was controlled from the beginning; the bulk of the ballots were largely received earlier (paid postage no doubt aiding in the matter); and due to the passage of [SB 162](#) by the 2019 Legislature, certain counties—those with more than 8,000 registered electors or more than 5,000 absentee electors—were allowed to prep the ballots three days prior to election day and begin tabulation one day prior—the public is allowed to watch all of this. (It must be noted that the tabulation machines do not show vote counts—results must be uploaded to Montana’s secured system after 8 p.m. on election day, and only the election administrator or their designee has ability/access to do so.)

It is important to note that research does not support the claims that mail ballot elections benefit one political party over another or that there is increased opportunity for voter/election fraud. Mail ballot elections have security features that polling place elections do not, and anti-fraud protections are written into Montana law. For example, ballots are only mailed to registered voters; those voters must sign their ballot return envelope before submitting it to the election’s office; and the signature on each ballot is reviewed by the election’s office, which involves comparing it to the exhibits of signatures on file for that voter before the ballot can be accepted. While a voter at a polling place will sign the register when receiving a ballot, there is no comparison of this signature to any other exhibit of that voter’s signature; so when it is said that mail/absentee ballots are more susceptible to acts of fraud than polling place ballots, this is demonstrably false in Montana.

The directive included several positive actions allowing for the success of the Primary Election:

- **Extension of Late Registration Deadline:** Many counties saw registration increase and had exponentially fewer late registrations. This resulted in a reduction of in-person crowding/gathering and was easy to implement.
- **Paid Postage:** Montana had a larger rate of return, reduction of in-person crowding/gathering, and this was easy to implement.
  - If there were to be the option for a mail ballot General Election, postage could be covered through the CARES Act funds that the SOS received; however, this does make counties responsible for 20%.
- **Local Option to Opt-in:** Local control is crucial in allowing counties to do what they determine is best for their voters.

## 2. WHERE IMPROVEMENTS CAN BE MADE

**Should the General Election be conducted by mail ballot, the most significant improvement that can be made is to allow more time by providing a directive earlier as opposed to later.** The Primary had a higher than normal voter turnout; however, had the counties been provided with more time, the turnout could have been even greater. For the Primary Election, Montana’s Clerk & Records/Election Administrators had one week and one day to get the election discussed in a public meeting in front of the Commissioners and then have the written plan submitted to the SOS’ Office—to say this was a tight turn around is an understatement.

As the virus appears to be escalating, providing a directive allowing for the General Election to be conducted by mail as soon as possible would be most beneficial for the voters, election judges and

staff, and the counties. If it is the intent of the Governor's Office to implement a directive regarding the General Election, **Montana's Election Administrators formally request the announcement be made by August 10<sup>th</sup>.**

Having 85 days to disseminate information is essential for the voters and the success of the election:

- **Outreach & Education:** Reaching out and educating the public about an all-mail ballot election is an enormous job, especially when the voters are expecting the polls to be available. This needs to begin earlier to be effective, and the voters deserve that preparation so they too can be prepared to easily exercise their right to vote. Counties are currently spending their time finding polling places (which are limited) and judges (who are also limited), which seems futile given the uptick in cases, hospitalizations, and deaths from COVID-19.
- **Higher Level of Outreach:** The Governor's Office and the Secretary of State's Office could partner with each county to provide PSAs encouraging voters to contact their local election offices to ensure their information (mailing address) is current.
  - On that same note, there should be more effort statewide to inform local governments and the public about current voting laws given the changes caused by the pandemic, recent court rulings, and pending court cases.
- **Preparation:** Counties would have more time to prepare as well as do things like rescanning signature updates and making changes of mailing and/or residential addresses now as opposed to when the ballots start coming back.
  - More preparation time allows counties to locate ballot drop-off locations that allow for access to an ADA voting device.
- **Best Practices:** If the counties had more time to prepare, those who are used to running many elections by mail could form a best practices document for the upcoming General Election.
  - Both MACo and MACR are ready and willing to help with best practices and ideas that will ensure that the General Election proceeds even better than the Primary.

### 3. ETHICAL CONCERNS: ELECTION JUDGES & POLLS DURING POLLING PLACE ELECTION

While the counties have some very dedicated people who are always willing to be involved in the election, the main point made during this COVID-19 pandemic is to limit interactions between people as much as possible. At a polling place, a voter may interact with three to four election judges and come in contact with any number of other voters; however, at a place of deposit, the voter may interact with one to two election officials and are quickly in and out, making the exposure to others significantly more limited.

If Montana were to maintain the polling place election, counties would need to recruit and train additional judges to replace those judges who are unwilling to serve in this election. For some counties, this would mean training hundreds of election judges in a short period of time. These election administrators are concerned about their ability to conduct training safely. This correlates with the need for a decision to be made and announced soon, as training election judges is a herculean task and results in a large cost to taxpayers, who are already being hit hard by the pandemic.

## Montana's Election Judges

- **Demographic:** Montana's election judges are primarily in the demographic of concern for mortality. As reported by the state in the 2018 federal election survey, 2,726 or 73% of Montana's election judges were aged 61 and over. During a poll election, the judges would be working in positions with the greatest community exposure, and many are not willing to participate this year for just that reason.
  - Counties have been surveying their election judges, and so far, hundreds of election judges are not willing or able to work at the polls. Even fewer would be willing to work if conditions worsen or a shelter in place order is in effect on election day.
  - 617 surveyed election judges were still willing to work, but only 491 would work if a shelter in place order is in effect. Counties expect that judges who sign up to work in the coming months will cancel or drop-out at the last minute as the pandemic continues or worsens.
  - Of the judges who are willing to work, counties are reluctant to accept the responsibility for their health and welfare.
- **COVID-19 Fatigue:** While most election judges surveyed said they would enforce social distancing, a few responded they would not. Those judges expressed they do not think it is their job to enforce social distancing and have requested backup from law enforcement because they are afraid, they will be harassed or harmed.

## Polling Places

- **Loss of Venues:** Counties are losing polling place venues, so they will be required to consolidate polling locations. This could also be influenced by staff and judges willing and able to serve (people must be available to run the polling place in a poll election).
  - Several locations said, "it all depends." If a polling place refuses at the last minute, this will cause even more hardship.
- **Consolidating into Larger Venues:** Due to the distancing necessities, counties will need to relocate and consolidate normal polling places to larger venues.
  - Consolidation will lead to increased group sizes and greater risk of infection.
  - For most counties, consolidating into larger venues means using their school(s) gymnasiums; however, those are not reliable or even ethical locations at this point:
    - Schools likely will not want the additional risk of having voters in their buildings; and
    - Even if the schools agree to let the counties use their larger spaces, it is not beneficial to the communities in Montana to further expose the staffs, teachers, and children.
  - Many rural counties simply do not have any larger venues outside of schools and nursing homes, making this really an impossibility for them.
    - Nursing homes, assisted living facilities, and other senior centers are completely out of the question.

- Confusion with Changing Polling Sites: Letters, advertising, posters, posted signs, and more that tell voters where their new polling site is located need to be developed and distributed; time is required to develop these materials and communicate effectively.

#### 4. UNDELIVERABLE BALLOTS AT UNIVERSITIES

Below is an overview of voting in the precincts that contain Montana State University (MSU) and the University of Montana (UM), as well as an analysis of undeliverable ballots in past Primary Elections for those precincts, actions taken during the 2020 Primary in order to comply with the directive, and the planning currently underway for the 2020 General Election to expand services to voters as well as avoid large groups as much as possible.

For the 2020 Primary Election, ballots were available for in-person voting at the election offices beginning on May 4, and ballots were sent 25 days before the election with a postage-paid return envelope. Some of the following percentages may seem high, so it is important to note and take into consideration that undeliverable ballots for the Universities are very common during the federal primary elections, because the spring semester concludes before or near Election Day, so the students are very transitory.

##### Undeliverable Rates 2016-2020 Primary Elections

Montana State University (MSU)	University of Montana (UM)
2020 Primary = 49.4%	2020 Primary = 75.9%
2018 Primary = 73.4%	2018 Primary = 82.2%
2016 Primary = 34.7%	2016 Primary = 46.7%

- **MSU:** The 2020 Primary Election undeliverable ballot percentage is below the average for last three primaries (52.5%).
  - 86.1% of active voters in this precinct are absentee, which is close to the countywide average of 87.2%.
  - The polling place for this precinct is located on campus (Shroyer Gym) for those voters who are non-absentee
- **UM:** The 2020 Primary Election undeliverable ballot percentage is close to the average for these three elections (68.3%).
  - 73% of active voters in this precinct are absentee, which is close to the countywide average of 78.9 %.
  - The polling place for this precinct is located on campus (University Center) for those voters who are non-absentee.

Missoula County accepts voter registration applications via email, and Gallatin County began accepting voter registration applications via email, which aided in their ability to update voters' addresses and resend undeliverable ballots. This coupled with the abbreviated late registration period allowed the Election Department to serve voters without the requirement of appearing in-person. These

allowances resulted in more manageable undeliverable ballot numbers and likely contributed to the increased turnout, as there was no longer the necessity for voters to engage with the county election department during regular business hours.

Social distancing policies were developed and implemented in such a way that did not inhibit a voters' access to the ballot or the ballot box:

- Gallatin County had a total of thirteen places of deposit on Election Day, and Missoula County had six, which allowed voters to access to the ballot box in a safe environment. These places of deposit were located in the parking lots of the usual polling place facilities so that voters and election officials were not required to commingle indoors. Election officials were provided with personal protective equipment and guidance on conducting an election at a place of deposit. (The training for working at a place of deposit is very minor and more manageable as compared to training election judges to conduct an election at a polling place.)

### **Plans for the 2020 General Election**

**Gallatin County:** In order to limit the number of voters who would appear at the election office, the Gallatin County Election Department is developing a plan to provide mobile satellite office services to isolated communities in the county 30-days prior to the election. This will include rural communities as well as areas such as the university where residents do not have easy access to the election office due to distance and/or transportation issues.

If the election is to be conducted via mail ballot, the county plans to maintain the same places of deposit, provided that the facilities are available and can accommodate the request. They will continue to work with groups such as the Associated Students of Montana State University (ASMSU) to ensure that they are aware of obstacles or impediments to voters. The option to livestream election processes that are observable by the public is being explored.

**Missoula County:** During the Primary Election, Missoula County worked closely with third-party groups, and they contacted voters registered at the University to update their address after the decision was made to go mail ballot and campus was closed. The county again intends to work with third-party groups for the General Election. The county did not have an alternative/satellite election office as they normally do, due to concerns of COVID-19; however, for the General Election, they are planning to work with the university to include an alternative/satellite election office. They would also like to expand places of deposit, but this depends on staffing levels.

## **5. RESERVATION COUNTIES**

### **2020 Primary Election**

Voter turnout during the Primary Election was higher than the last two federal primaries for most—if not all—reservation counties. Clerk & Records/Election Administrators from reservation counties around the state agree that they had a greater voter turnout and a positive voter experience. Western Native Voice (WNV) said they had an increase of approximately 5% in their targeted precinct.

Having the late registration period one week prior to the Primary Election proved to be very beneficial, because counties were able to utilize that time to contact voters whose ballots had been returned as

undeliverable. In Rosebud County, which includes part of the Northern Cheyenne Indian Reservation, the election office sent out letters to all voters on the inactive list to try and get as many updated addresses as possible. When undeliverable ballots were received, they used several methods to reach out to voters including phone calls, word of mouth, and more mail, but the one method that worked particularly well was utilizing Facebook and posting daily the names of people whose ballots had been returned to the election office along with contact information. The county was able to get all ballots sent prior to close of registration.

## **2020 General Election**

If the 2020 General Election is to be conducted via mail ballot, the counties would like to be allowed more time to prepare, so they can collaborate sooner with organizations such as WNV. In speaking with WNV, they are very amenable to working with the counties and reaching out to inactive voters to help collect correct addresses, but they agree that more time is needed to conduct additional outreach and education regarding mail ballot.

The counties feel it is imperative to avoid giving satellite/alternative election offices specific direction, as every reservation county and tribal government is different. Allowing them to work together in figuring out what best fits their specific situations is essential in providing effective election services. However, if there is to be a directive regarding the 2020 General Election, adding language suggesting a coordinated effort between Clerk & Records/Election Administrations in reservation counties with organizations such as WNV would be beneficial and could include election-day-specific recommendations, such as arranging for transportation to the courthouse to vote as well as drop box(es) on the reservations.

## **6. HELPING VOTERS WITH DISABILITIES**

In speaking with Disability Rights Montana (DRM) about voting during the pandemic and the possibility of the 2020 General Election being conducted via mail ballot, they would request an enhancement of the EBRs system allowing voters with disabilities to submit their ballot electronically or permit voters with disabilities to use the EAS system (MACR is not sure if this is a possibility, as the system requirements are aligned with MOVE Act). Changes such as these would require more time, as system augmentation requires development and testing, so it would likely need to begin immediately to be deployable by October.

DRM stated that it would also be helpful if the directive requires that information regarding drop sites and any changes/updates to drop sites be posted on state (SOS & Governor) and local websites. To eliminate the over-communications/crosstalk between multiple agencies, it might be more streamlined if the “My Voter Page” were optimized for places of deposit locations (not just polling places), and then all other suggested websites could link to that information. It is also important DRM is contacted when updates are made, so they can inform their members/community. And lastly, perhaps a link to the information could also be included in the mail ballot instructions.

DRM’s final request is to ensure that each election office has an Automark or Expressvote available at their late registration/absentee voting locations—whether that is the election office or another location—for 30 days prior to election day.

## 7. ADJUSTING THE TIMELINE

In a typical mail ballot election, the governing body would call for the election to be by mail at least 70 days before election day. If there is to be a directive that the General Election be conducted by mail, it should be 85 days before the election (August 10<sup>th</sup>), so County Commissioners can meet that 70-day deadline (August 25<sup>th</sup>).

Counties were able to pull off the Primary Election successfully within a short timeframe largely because they already had processes in place to run a mail ballot election **of that scale**. A Presidential General Election is a much bigger election with more interest and turnout.

Another reason to decide by August 10 is so Clerk & Recorder/Election Administrators can send and process targeted mailers before ballots are mailed. If the election is by mail, counties could work with a mailer to identify voters that have had address changes and send them all a letter, so they can update their address before ballots are mailed.

## 8. CONCLUSION

Given we are unsure of how long the pandemic will last, Montana's Clerk & Records/Election Administrators want to (and absolutely should be) prepared for the worst, especially given that elections require numerous election judges and enormous groups of people.

We formally request that Counties be given the option to conduct the 2020 General Election by mail and, as with the 2020 Primary, also afford those who wish to vote in person that option as well, to ensure that all eligible residents are able to exercise their right to vote.

When it comes to emergencies, one clear consistent message and working together is important. No matter what is done regarding the election, we look forward to working with the Governor's Office to ensure Montana provides safe elections for voters, poll workers/election judges, candidates, and county employees.

Sincerely,

Shantil Siaperas  
Montana Association of Counties  
Montana Association of Clerk & Records/Election Administrators