

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

**INTRODUCED**

LLS NO. 09-0535.01 Dan Cartin

**HOUSE BILL 09-1205**

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**A BILL FOR AN ACT**

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

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**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

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 SHALL DEVELOP AN  
3 INTERNET-BASED VOTING PILOT PROGRAM TO FACILITATE VOTING BY  
4 ABSENT UNIFORMED SERVICES ELECTORS SERVING OUTSIDE THE UNITED  
5 STATES COMMENCING WITH THE GENERAL ELECTION HELD IN 2010. THE  
6 SECRETARY OF STATE SHALL SELECT \_\_\_ POLITICAL SUBDIVISIONS TO  
7 PARTICIPATE IN THE PILOT PROGRAM. THE INTERNET-BASED VOTING  
8 SYSTEM DEVELOPED FOR USE BY POLITICAL SUBDIVISIONS THAT  
9 PARTICIPATE IN THE PILOT PROGRAM SHALL:

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

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

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

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

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

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

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

27 (f) PROVIDE UNINTERRUPTED AND RELIABLE INTERNET

1 AVAILABILITY FOR THE PURPOSE OF CASTING VOTES VIA THE INTERNET BY  
2 THE ELECTORS.

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

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

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

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

17 (d) VERIFY THAT ALL VOTES CAST VIA THE INTERNET BY ELECTORS  
18 WERE INDEED COUNTED AND ATTRIBUTED CORRECTLY TO THE ELECTOR  
19 WHO CAST THE VOTE.

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

23 (4) THERE IS HEREBY CREATED IN THE STATE TREASURY THE  
24 INTERNET-BASED VOTING PILOT PROGRAM FUND TO PROVIDE FOR THE  
25 DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS  
26 ARTICLE. THE FUND SHALL CONSIST OF GIFTS, GRANTS, AND DONATIONS  
27 TO THE FUND FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF

1 THIS ARTICLE. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH  
2 GIFTS, GRANTS, AND DONATIONS SHALL BE TRANSMITTED TO THE STATE  
3 TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. MONEYS IN THE  
4 FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
5 ASSEMBLY TO THE DEPARTMENT OF STATE FOR THE PURPOSES SPECIFIED  
6 IN THIS ARTICLE. ANY UNEXPENDED AND UNENCUMBERED MONEYS  
7 REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN  
8 IN THE FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND OR  
9 ANY OTHER FUND.

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

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

17 **1-8-103.5. Voting by persons residing overseas and military**  
18 **personnel - definitions.** (1) (a) The designated or coordinated election  
19 official of a county or other political subdivision that meets the  
20 requirements of the rules promulgated by the secretary of state pursuant  
21 to subsection (3) of this section shall provide a mail-in ballot by  
22 electronic means to an eligible elector who is an absent uniformed  
23 services elector, a nonresident overseas elector, or a resident overseas  
24 elector, as defined in section 1-2-208 (2.5), if the elector timely filed a  
25 mail-in ballot application with the designated or coordinated election  
26 official requesting that the mail-in ballot be sent by electronic means.

27 (b) A MAIL-IN BALLOT SHALL BE PROVIDED BY THE SAME

1 ELECTRONIC MEANS AVAILABLE UNDER PARAGRAPH (a) OF THIS  
2 SUBSECTION (1) TO AN ABSENT UNIFORMED SERVICES ELECTOR SERVING  
3 OUTSIDE THE UNITED STATES NOT LATER THAN THIRTY DAYS BEFORE THE  
4 ELECTION IF THE ELECTOR:

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

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

10 (2) (a) The eligible elector may return the voted ballot to the  
11 designated or coordinated election official by electronic means. The  
12 returned ballot shall be counted if it arrives in the office of the designated  
13 or coordinated election official ~~by 7 p.m. on election day~~ NO LATER THAN  
14 THE CLOSE OF BUSINESS ON THE EIGHTH DAY FOLLOWING THE DAY OF THE  
15 ELECTION. When the ballot is received by the designated or coordinated  
16 election official, a bipartisan team of judges shall duplicate the ballot, and  
17 the ballot shall be counted as all other mail-in ballots. The judges who  
18 duplicate the ballot shall not reveal to any other person how the elector  
19 has cast his or her ballot.

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

22 **1-8-111. Delivery of mail-in ballot and replacement mail-in**  
23 **ballots.** (1) (a) The mail-in ballot and other materials shall be delivered  
24 or mailed to the elector within seventy-two hours after the receipt of the  
25 application, if the official ballots are then printed, or, if not then printed,  
26 within seventy-two hours after the printed ballots are delivered to the  
27 designated election official. If the mail-in ballot and other materials are

1 mailed, the envelope shall be marked "DO NOT FORWARD" or by any  
2 other similar statement that is in accordance with United States postal  
3 service regulations.

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

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

12 **1-8-113. Manner of mail-in voting - first-time voters casting**  
13 **a mail-in ballot after having registered by mail to vote.**

14 (1) (a) (I) Any eligible elector applying for and receiving a mail-in ballot,  
15 in casting the ballot, shall make and subscribe to the self-affirmation on  
16 the return envelope. The elector shall then mark the ballot, fold the ballot  
17 or insert the ballot card in the special envelope provided for the purpose  
18 so as to conceal the marking, deposit it in the return envelope, enclose  
19 identification if required by subsection (3) of this section, and seal the  
20 envelope securely. The envelope may be delivered personally or mailed  
21 by the elector to the designated election official issuing the ballot or  
22 delivered personally by the elector during the time early voting is made  
23 available pursuant to section 1-8-202 or on election day to an early voters'  
24 polling place in the county in which the elector is registered to vote.  
25 Alternatively, an elector may deliver the ballot to any person of the  
26 elector's own choice or to any duly authorized agent of the designated  
27 election official for mailing or personal delivery to the designated election

1 official; except that no one person other than a duly authorized agent of  
2 the designated election official may receive more than five mail-in ballots  
3 in any election for mailing or delivery to the designated election official.  
4 EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), all  
5 envelopes containing mail-in ballots shall be in the hands of the  
6 designated election official no later than 7 p.m. on the day of the election.  
7 Mail-in envelopes received after 7 p.m. on the day of the election but  
8 postmarked on or before the day of the election will remain sealed and  
9 uncounted, but the elector's registration record will not be canceled for  
10 failure to vote in a general election.

11 (II) ALL ENVELOPES CONTAINING MAIL-IN BALLOTS CAST BY  
12 ABSENT UNIFORMED SERVICES ELECTORS SERVING OUTSIDE THE UNITED  
13 STATES SHALL BE IN THE HANDS OF THE DESIGNATED ELECTION OFFICIAL  
14 NO LATER THAN THE CLOSE OF BUSINESS ON THE EIGHTH DAY FOLLOWING  
15 THE DAY OF THE ELECTION.

16 **SECTION 6. Act subject to petition - effective date.** This act  
17 shall take effect at 12:01 a.m. on the day following the expiration of the  
18 ninety-day period after final adjournment of the general assembly that is  
19 allowed for submitting a referendum petition pursuant to article V,  
20 section 1 (3) of the state constitution, (August 4, 2009, if adjournment  
21 sine die is on May 6, 2009); except that, if a referendum petition is filed  
22 against this act or an item, section, or part of this act within such period,  
23 then the act, item, section, or part, if approved by the people, shall take  
24 effect on the date of the official declaration of the vote thereon by  
25 proclamation of the governor.