



AN ACT GENERALLY REVISING ELECTION LAWS; CLARIFYING PROCEDURES FOR REGISTERING FOR, VOTING BY, AND COUNTING AN ABSENTEE BALLOT; CLARIFYING THE LATE REGISTRATION PROCESS; REQUIRING AN OATH TO BE PLACED IN THE DECLARATION FOR NOMINATION FOR A CANDIDATE IN A PRIMARY CONTEST; REVISING THE BALLOT REQUIREMENTS AND SELECTION PROCESS FOR PRECINCT COMMITTEE POSITIONS; REVISING THE PROCESS FOR COLLECTING A BALLOT FROM CERTAIN DISABLED ELECTORS; REVISING THE PROVISIONS FOR POSTING BONDS REQUIRED FOR CERTAIN RECOUNTS; ELIMINATING THE PROVISION THAT PROHIBITS CERTAIN RELIGIOUS OFFICIALS AND CORPORATE OFFICERS FROM PARTICIPATING IN CERTAIN ELECTION ACTIVITIES; REQUIRING TIE VOTES IN PRECINCT COMMITTEE ELECTIONS TO BE DETERMINED BY THE COUNTY CENTRAL COMMITTEE; AMENDING SECTIONS 5-2-402, 13-1-101, 13-1-210, 13-2-107, 13-2-108, 13-2-112, 13-2-115, 13-2-122, 13-2-207, 13-2-220, 13-2-301, 13-2-304, 13-10-201, 13-10-203, 13-10-209, 13-10-211, 13-10-302, 13-10-404, 13-10-405, 13-10-503, 13-10-507, 13-13-112, 13-13-118, 13-13-201, 13-13-204, 13-13-211, 13-13-212, 13-13-213, 13-13-214, 13-13-225, 13-13-226, 13-13-227, 13-13-228, 13-13-229, 13-13-230, 13-13-241, 13-13-244, 13-13-245, 13-13-301, 13-13-602, 13-13-603, 13-14-112, 13-14-113, 13-15-107, 13-15-108, 13-15-201, 13-15-206, 13-15-401, 13-16-201, 13-16-211, 13-16-417, 13-17-203, 13-17-211, 13-19-102, 13-19-106, 13-19-304, 13-21-210, 13-21-212, 13-35-218, 13-37-126, AND 13-38-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.

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

**Section 1.** Section 5-2-402, MCA, is amended to read:

**"5-2-402. Appointment by board of county commissioners -- county central committee role -- timeframes.** (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district for senate candidates of the party to which the person vacating the seat belonged may be counted. The secretary of state shall provide an estimate of the number of votes cast for each party by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a vacant legislative seat under this section is as follows:

(a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the board of county commissioners and the state party that is responsible for notifying the county central

committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is an independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.

(b) The county central committee or committees, upon receipt of notification of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

- (i) after receiving the list of prospective appointees from the county central committee or committees;
- (ii) after 45 days have expired after the notification of vacancy if the county central committee or committees have not provided a list of prospective appointees; or
- (iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

**Section 2.** Section 13-1-101, MCA, is amended to read:

**"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that

is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; or

(c) an officeholder who is the subject of a recall election.

(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residences for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any

broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections not administered by the county, the term means the school district clerk.

(10) "Elector" means an individual qualified to vote under state law.

(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in

13-1-104(1).

(14) "Inactive elector" means an individual who failed to respond to confirmation notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

(16) "Individual" means a human being.

(17) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing ballots to all active electors.

(20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(21) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

(22) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(23) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(24) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of Title 13, chapter 19.

(25) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(26) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not been verified as provided by law.

(27) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

(28) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(29) "Random-sample audit" means an audit involving a manual count of ballots from designated races and ballot issues in precincts selected through a random process as provided in 13-17-503.

(30) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(31) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

(a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

(b) allow it to be used in the United States mail.

~~(31)~~(32) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

~~(32)~~(33) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

~~(33)~~(34) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(34)~~(35) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

~~(35)~~(36) "Voted ballot" means a ballot that is:

- (a) deposited in the ballot box at a polling place;
- (b) received at the election administrator's office; or
- (c) returned to a place of deposit.

~~(36)~~(37) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

**Section 3.** Section 13-1-210, MCA, is amended to read:

**"13-1-210. Standard application form for voter registration and absentee ballot requests.** (1) The secretary of state shall establish by rule a standard application form, to be used by each election administrator, that allows an individual to apply for voter registration and to request to be added to the absentee ballot list in order to receive ballots for subsequent elections.

(2) Pursuant to 13-13-212~~(4)~~(3), the absentee ballot application portion of the standard form must include substantially the following language and options:

Optional: I request an absentee ballot to be mailed to me for as long as I reside at the address listed:

for each subsequent election in which I am eligible to vote; or

~~\_\_\_\_\_  for each subsequent federal election in which I am eligible to vote.~~

I understand that in order to continue to receive an absentee ballot, I must complete, sign, and return a confirmation form that will be mailed to me in January of each year."

**Section 4.** Section 13-2-107, MCA, is amended to read:

**"13-2-107. Statewide voter registration ~~database~~ system -- information-sharing agreements.** (1) The secretary of state shall establish, in a uniform and nondiscriminatory manner, a single official, centralized, and interactive computerized statewide voter registration ~~database~~ system that meets the requirements of 42 U.S.C. 15483.

(2) (a) The statewide voter registration ~~database~~ system must be used as the official list of registered electors for the conduct of all elections subject to this title.

(b) The ~~database~~ system must contain the name and registration information of each registered elector.

(c) Each election administrator must be provided with immediate electronic access to the ~~database~~



system.

(d) The secretary of state shall provide the technical support required to assist election administrators to enter, maintain, and access information in the statewide voter registration ~~database~~ system.

(3) As provided in 42 U.S.C. 15483:

(a) the secretary of state and the attorney general shall enter into an agreement to match information in the statewide voter registration list with information in the motor vehicle licensing database to the extent required to verify voter registration information; and

(b) the attorney general shall enter into an agreement with the United States commissioner of social security for the purpose of verifying voter registration information."

**Section 5.** Section 13-2-108, MCA, is amended to read:

**"13-2-108. Rulemaking for statewide voter registration list.** (1) The secretary of state shall adopt rules to implement the provisions of 42 U.S.C. 15483 and this chapter.

(2) The rules must include but are not limited to:

(a) a list of maintenance procedures, including new data entry, updates, registration transfers, and other procedures for keeping information current and accurate;

(b) proper maintenance and use of active and inactive lists;

(c) proper maintenance and use of lists for legally registered electors and provisionally registered electors;

(d) technical security of the statewide voter registration ~~database~~ system;

(e) information security with respect to keeping from general public distribution driver's license numbers, whole or partial social security numbers, and address information protected from general disclosure pursuant to 13-2-115; and

(f) quality control measures for the system and system users.

(3) The rules adopted by the secretary of state must reflect that an elector who was properly registered prior to January 1, 2003, is considered a legally registered elector."

**Section 6.** Section 13-2-112, MCA, is amended to read:

**"13-2-112. Register of electors to be kept.** Each election administrator shall keep an official register

of electors in the statewide voter registration ~~database~~ system. The original signed registration form for each elector must be scanned, and the scanned copy must be retained in the statewide voter registration ~~database~~ system. The original paper copy must be kept according to the state records retention schedule for such records. The information recorded in the official register of electors and the design of the registration forms must be prescribed by the secretary of state in the statewide voter registration ~~database~~ system."

**Section 7.** Section 13-2-115, MCA, is amended to read:

**"13-2-115. Certification of statewide voter registration list -- local lists to be prepared.** (1) No later than 5 working days after the deadline prescribed in 13-2-301(3), election administrators shall enter all voter registration applications that were submitted within the deadline for regular registration into the statewide voter registration ~~database~~ system.

(2) The secretary of state shall certify the official statewide voter registration list by utilizing the information in the statewide voter registration ~~database~~ system.

(3) Each election administrator shall have printed from the certified statewide voter registration ~~database~~ system lists of all registered electors in each precinct in the county. Except as provided in subsections (6) and (7), names of electors must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used.

(4) A copy of the list of registered electors in a precinct must be displayed at the precinct's polling place. Extra copies of the lists must be retained by the election administrator and furnished to an elector upon request.

(5) Lists of registered electors need not be printed if the election will not be held.

(6) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be disclosed, the secretary of state or an election administrator may not include the address on any generally available list of registered electors but may list only the electors' names.

(7) (a) Upon the request of an individual, the secretary of state or an election administrator may not include the individual's residential address on any generally available list of registered electors but may list only the elector's name if the individual:

(i) proves to the election administrator, as provided in subsection (7)(b), that the individual, or a minor in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial

interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

(ii) proves to the election administrator, as provided in subsection (7)(c), that a temporary restraining order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual or minor.

(b) Proof of the victimization is conclusive upon exhibition to the election administrator of a criminal judgment, information and judgment, or affidavit of a county attorney clearly indicating the conviction and the identity of the victim.

(c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to the election administrator of the temporary restraining order or injunction."

**Section 8.** Section 13-2-122, MCA, is amended to read:

**"13-2-122. Charges for registers, elector lists, and mailing labels made available to public.** (1) Except as provided in subsection (2), upon request, the secretary of state shall furnish to any individual, for noncommercial use, available extracts and reports from the statewide voter registration ~~database~~ system. Upon request, a local election administrator shall furnish to an individual, for noncommercial use, a copy of the official precinct registers, a current list of legally registered electors, mailing labels for registered electors, or other available extracts and reports. Upon delivery, the secretary of state or the local election administrator may collect a charge not to exceed the actual cost of the register, list, mailing labels, or available extracts and reports.

(2) For an elector whose address information is protected from general distribution under 13-2-115 (6) or (7), the secretary of state or a local election administrator may not include the elector's residential address on any register, list, mailing labels, or available extracts and reports but may list only the elector's name."

**Section 9.** Section 13-2-207, MCA, is amended to read:

**"13-2-207. Confirmation of registration.** (1) The election administrator shall give or mail to each elector a notice, confirming registration and giving the location of the elector's polling place. A notice sent to an elector to whom the notice is not personally given must be sent by nonforwardable, first-class mail, which must conform to postal regulations to ensure address corrections are received. ~~If the notice is returned undeliverable the application for voter registration may not be placed on the register of electors kept by the election administrator.~~

(2) ~~The~~ If the notice confirming registration is returned as undeliverable, the election administrator shall

investigate the reason for the return of any mailed notices and mail a confirmation notice to the elector. The notice must conform to postal regulations to ensure return, not forwarding, of undelivered notices."

**Section 10.** Section 13-2-220, MCA, is amended to read:

**"13-2-220. Maintenance of active and inactive voter registration lists for elections -- rules by secretary of state.** (1) The rules adopted by the secretary of state under 13-2-108 must include the following procedures, at least one of which an election administrator shall follow in every odd-numbered year:

(a) compare the entire list of registered electors against the national change of address files and provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

(b) mail a nonforwardable, first-class, "return if undeliverable--address correction requested" notice to all registered electors of each jurisdiction to confirm their addresses and provide the appropriate confirmation notice to those individuals who return the notices;

(c) mail a targeted mailing to electors who failed to vote in the preceding federal general election, applicants who failed to provide required information on registration cards, and provisionally registered electors by:

(i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable confirmation notice to those electors who appear to have moved from their addresses of record;

(ii) comparing the list of nonvoters against the national change of address files, followed by the appropriate confirmation notices to those electors who appear to have moved from their addresses of record;

(iii) sending forwardable confirmation notices; or

(iv) making a door-to-door canvass.

(2) An individual who submits an application for an absentee ballot for a federal general election or who completes and returns the address confirmation notice specified in 13-13-212~~(4)~~(3) during the calendar year in which a federal general election is held is not subject to the procedure in subsection (1)(c) unless the individual's ballot for a federal general election is returned as undeliverable and the election administrator is not able to contact the elector through the most expedient means available to resolve the issue.

(3) Any notices returned as undeliverable to the election administrator or any notices to which the elector fails to respond after the election administrator uses the procedures provided in subsection (1) must be followed within 30 days by an appropriate confirmation notice that is a forwardable, first-class, postage-paid,

self-addressed, return notice. If the elector fails to respond within 30 days of the final confirmation notice, the election administrator shall move the elector to the inactive list.

(4) A procedure used by an election administrator pursuant to this section must be completed at least 90 days before a primary or general election for federal office.

(5) An elector's registration may be reactivated pursuant to 13-2-222 or may be canceled pursuant to 13-2-402."

**Section 11.** Section 13-2-301, MCA, is amended to read:

**"13-2-301. Close of regular registration -- notice -- changes.** (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this subsection (1)(b) are fulfilled upon the third publication or broadcast of the notice.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1)(a).

~~— (4) An individual who submits a completed registration form to the election administrator before the deadlines provided in this section is allowed to correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of regular registration, and the qualified elector is then eligible to vote in the election.~~

~~(5)~~(4) An elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, except as otherwise provided in 13-2-304."

**Section 12.** Section 13-2-304, MCA, is amended to read:

**"13-2-304. Late registration -- late changes -- nonapplicability for school elections.** (1) Except as

provided in subsections (2) and (3), the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of the polls on election day.

(b) Late registration is closed from noon to 5 p.m. on the day before the election.

(c) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter information pursuant to this section may vote in the election only if the elector obtains the ballot from and returns it to the location designated by the county election administrator.

(2) If an elector has already been issued a ballot for the election, the elector may change the elector's voter registration information only if the original voted ballot has not been received at the county election office and if the original ballot that was issued is marked by the issuing county as void in the statewide voter registration database system prior to the change.

(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a school election held pursuant to Title 20 unless the county election administrator is conducting the school election and an election other than a school election on the same day."

**Section 13.** Section 13-10-201, MCA, is amended to read:

**"13-10-201. Declaration for nomination -- term limitations.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration for nomination must include an oath of the candidate that includes wording substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven otherwise in a court of law.

~~(4)~~(5) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

~~(5)~~(6) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

~~(6)~~(7) (a) Except as provided in 13-10-211 and subsection ~~(6)(b)~~ (7)(b) of this section, a candidate's declaration for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(b) For an election held pursuant to 13-1-104(1)(a) or 13-1-107(1) or for a political subdivision that holds an election on the date of either of those elections, a candidate's declaration for nomination must be filed no sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m., 85 days before the date of the primary election.

~~(7)~~(8) A properly completed and signed declaration for nomination form may be sent by facsimile transmission ~~if a facsimile facility is available for use by the election administrator or by the secretary of state,~~

electronically mailed, delivered in person, or mailed to the election administrator or to the secretary of state.

~~(8)~~(9) For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary of state shall apply the following conditions:

(a) A term of office for an official serving in the office or a candidate seeking the office is considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks election and end on December 31 of the term for which the official is elected or for which the candidate seeks election.

(b) A year is considered to start on January 1 and end on the following December 31.

(c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided in 2-16-214."

**Section 14.** Section 13-10-203, MCA, is amended to read:

**"13-10-203. Indigent candidates.** If an individual is unable to pay a filing fee, the filing officer shall accept the following documents in lieu of a filing fee:

(1) from a successful write-in candidate, a statement that the candidate is unable to pay the filing fee;

(2) from a candidate for nomination, a statement that the candidate is unable to pay the filing fee and a written petition for nomination as a candidate that meets the following requirements:

(a) the petition contains the name of the office to be filled and the candidate's name and residence address;

(b) the petition contains signatures numbering 5% or more of the total vote cast for the successful candidate for the same office at the last general election;

(c) the signatures are those of electors residing within the political subdivision of the state in which the candidate petitions for nomination; and

(d) the signatures have been submitted to the appropriate election administrator at least 1 week prior to the applicable deadline in 13-10-201~~(6)~~(7) and have been certified by the appropriate election administrator by the procedure provided in 13-27-303 and 13-27-304."

**Section 15.** Section 13-10-209, MCA, is amended to read:

**"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots,



except that there must be separate ballots for each political party entitled to participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear ~~opposite~~ with each candidate's name.

(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

(i) each section is clearly identified as separate; and

(ii) the nonpartisan offices and ballot issues appear on each party's ballot; ~~and~~

~~—— (iii) with respect to ballot issues, written approval is obtained as provided in 13-27-502.~~

(2) ~~An~~ Except as provided in subsection (3), an election administrator does not need to prepare a primary ballot for a political party if:

(a) the party does not have candidates for more than half of the offices to appear on the ballot; ~~or~~ and

(b) no more than one candidate files for nomination by that party for any of the offices to appear on the ballot.

(3) Subsection (2) does not apply to elections for precinct committee offices. If more than one candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that party shall select the candidate to fill the office.

~~(3)~~(4) If, pursuant to subsection (2), in a primary election held under 13-1-107(1) a primary ballot for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

~~(4)~~(5) The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different appearance than the party ballots but must be numbered in the same order as the party ballots.

~~(5)~~(6) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.

~~(6)~~(7) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue choices."

**Section 16.** Section 13-10-211, MCA, is amended to read:

**"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (8), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available for absentee voting for the election and must contain:

- (a) (i) the candidate's first and last names;
- (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;
- (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and
- (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;
- (b) the candidate's mailing address;
- (c) a statement declaring the candidate's intention to be a write-in candidate;
- (d) the title of the office sought;
- (e) the date of the election;
- (f) the date of the declaration; and
- (g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not been canceled as provided by law.

(3) A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who

have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) A properly completed and signed declaration of intent may be provided to the election administrator or secretary of state:

- (a) by facsimile transmission ~~if a facsimile facility is available for receipt;~~
- (b) in person; ~~or~~
- (c) by mail; or
- (d) by electronic mail.

(6) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator.

(7) A write-in candidate who files a declaration of intent for a general election may not file with a partisan, nonpartisan, or independent designation.

(8) Except as provided in 13-38-201(5), the requirements in subsection (1) do not apply if:

- (a) an election is held;
- (b) a person's name is written in on the ballot;
- (c) the person is qualified for and seeks election to the office for which the person's name was written in; and
- (d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

**Section 17.** Section 13-10-302, MCA, is amended to read:

**"13-10-302. Write-in votes for previously nominated candidates.** (1) Subject to subsection (2), if an elector casts a write-in vote for a candidate on a primary party ballot when the candidate's name also appears or is written in for the same office on another party's ballot, the write-in vote counts only with respect to the party on whose ballot the write-in vote was cast and the write-in votes, if on multiple parties' ballots, and the votes cast for the candidate on the other party's ballots may not be added together.

(2) A write-in vote must be counted as provided in 13-15-206(5)."

**Section 18.** Section 13-10-404, MCA, is amended to read:

**"13-10-404. Placement of candidate on primary ballot -- methods of qualification.** Before an individual intending to qualify as a presidential candidate may qualify for placement on the ballot, the individual shall qualify by one or more of the following methods:

(1) The individual has submitted a declaration for nomination that is signed by the candidate or an authorized election official to the secretary of state pursuant to 13-10-201(2) and has been nominated on petitions with the verified signatures of at least 500 qualified electors. The secretary of state shall prescribe the form and content of the petition.

(2) The individual has submitted a declaration for nomination to the secretary of state pursuant to 13-10-201, and the secretary of state has determined, by the time that declarations for nomination are to be filed, that the individual is eligible to receive payments pursuant to the federal Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031, et seq."

**Section 19.** Section 13-10-405, MCA, is amended to read:

**"13-10-405. Submission and verification of petition.** Petitions of nomination for the presidential preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures are gathered at least 1 week before the primary election filing deadline prescribed in 13-10-201(6)(b)(7)(b). A filing fee is not required. The election administrator shall verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and must forward the petitions to the secretary of state by the filing deadline prescribed in 13-10-201(6)(b)(7)(b)."

**Section 20.** Section 13-10-503, MCA, is amended to read:

**"13-10-503. Filing deadlines.** (1) A petition for nomination, ~~and~~ the affidavits of circulation required by 13-27-302, ~~accompanied by~~ and the required filing fee; must be filed with the same officer with whom other nominations for the office sought are filed. Petitions must be submitted, at least 1 week before the deadline for filing, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306. ~~If there are insufficient signatures on the petition, additional signatures may be submitted before the deadline for filing.~~ If sufficient signatures are verified and certified pursuant to 13-10-502, the county election administrator shall file the petition for nomination with the same officer with whom other nominations for the office sought are filed.

(2) Except as provided in 13-10-504, each petition for nomination, ~~accompanied by~~ and the required filing fee; must be filed ~~by the applicable deadline established in 13-10-201(6)(a) or (6)(b)~~ before the scheduled primary election or the filing deadline for the special or general election if a primary election is not scheduled."

**Section 21.** Section 13-10-507, MCA, is amended to read:

**"13-10-507. Independent candidates -- association with political parties not allowed.** (1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of the person's nomination petition.

(2) For the purposes of subsection (1), "associated with a political party" means having run for office in Montana as a partisan candidate or having held ~~an~~ a public office in Montana or a precinct committee representative office in Montana with a political party designation."

**Section 22.** Section 13-13-112, MCA, is amended to read:

**"13-13-112. Display of instructions for electors.** (1) Except as provided in subsection (3), instructions for electors on how to prepare their ballots or use a voting system must be posted in each voting station provided for the preparation of ballots ~~and elsewhere in the polling place.~~

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

- (a) how to obtain ballots for voting;
- (b) how to prepare ballots, including how to:
  - (i) cast a valid vote, including a valid vote for a write-in candidate;
  - (ii) correct a mistake; and
  - (iii) ensure the proper disposition of the ballot after the elector is finished voting;
- (c) how to obtain a new ballot in place of one spoiled by accident; and
- (d) how to vote provisionally pursuant to 13-13-601~~;~~

(3) The information required in subsection (2) must also be posted at each polling place along with  
~~(e)~~ the election date, and the hours the polls are open; and  
~~(f)~~ instructions for mail-in registrants and first-time voters who registered by mail.

~~(3)~~(4) If the instructions for use of a voting system are printed on the system or are part of a ballot package given to each elector, separate instructions need not be posted in the voting station.

~~(4)~~(5) Sample ballots, clearly marked "sample" across the face, must be posted at each voting station and in conspicuous places around the polling place."

**Section 23.** Section 13-13-118, MCA, is amended to read:

**"13-13-118. Taking ballot to disabled elector.** (1) The chief election judge may appoint two election judges who represent different political parties to take a ballot to an elector able to come to the premises where a polling place is located but unable to enter the polling place because of a disability. If election judges who represent different political parties are not available, the chief election judge shall appoint two election judges to assist the elector. The elector may request assistance in marking the ballot as provided in 13-13-119.

(2) The judges shall have the elector sign an oath form stating that the elector is entitled to vote and shall write in the precinct register by the elector's name "voted on the premises by oath" and sign their names.

(3) When the ballot or ballots are marked and folded, the judges shall immediately take them into the polling place and give them to the judge at the ballot box. ~~The judge receiving the voted ballots shall distinctly announce that the judge has "a ballot offered by ..... (name), an elector physically unable to enter the room. Does anyone object to the reception of the ballot?" If an objection is not heard, the judge shall remove the stub and place the ballot and stub in the proper boxes.~~ Any challenge to the elector's right to vote must be resolved as provided in Title 13, chapter 13, part 3."

**Section 24.** Section 13-13-201, MCA, is amended to read:

**"13-13-201. Voting by absentee ballot -- procedures.** (1) A legally registered elector or provisionally registered elector is entitled to vote by absentee ballot as provided for in this part.

(2) The elector may vote absentee by:

(a) marking the ballot in the manner specified;

(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

(c) placing the secrecy envelope containing one ballot for each election being held in the ~~return~~ signature envelope;

(d) executing the affirmation printed on the ~~return~~ signature envelope; and

(e) returning the ~~return~~ signature envelope with all appropriate enclosures by regular mail, postage paid, or by delivering it to:

- (i) the election office;
- (ii) a polling place within the elector's county;
- (iii) pursuant to 13-13-229, the ~~special~~ absentee election board or an authorized election official; or
- (iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within the elector's county.

(3) Except as provided in 13-21-206 and 13-21-207, in order for the ballot to be counted, each elector shall return it in a manner that ensures the ballot is received prior to 8 p.m. on election day.

(4) A provisionally registered elector may also enclose in the outer ~~return~~ signature envelope a copy of the elector's photo identification showing the elector's name. The photo identification may be but is not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification. If the provisionally registered elector does not enclose a photo identification, the elector may enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address."

**Section 25.** Section 13-13-204, MCA, is amended to read:

**"13-13-204. Authority to vote in person -- printing error or ballot destroyed -- replacement ballot -- effect of absentee elector's death.** (1) (a) If an elector has received but not voted an absentee ballot and the absentee ballot contains printing errors or omissions, the elector may receive a replacement or corrected ballot.

(b) The death of a candidate after the printing of the ballot constitutes a printing error or omission on the ballot.

(2) ~~(a)~~ An elector may:

(a) request a replacement ballot from the election administrator pursuant to subsection (1) or if the original ballot is destroyed, spoiled, lost, or not received by the elector; or

~~(b) An elector whose original ballot is destroyed, spoiled, lost, or not received by the elector may appear at the appropriate polling place on election day and vote in person after being issued a provisional ballot.~~

(3) A request for a replacement ballot submitted to the election administrator must be made on a form prescribed by the secretary of state and ~~submitted to the election administrator~~ must be made in person, by regular or electronic mail, or by facsimile no later than 8 p.m. on election day.

(4) Upon receiving a request for a replacement ballot pursuant to subsection (3), the election administrator shall mark the original issued ballot as void in the statewide voter registration ~~database~~ system and issue a replacement regular ballot to the elector.

(5) A replacement ballot may also be issued pursuant to 13-13-245.

(6) If an elector votes by absentee ballot and the ballot has been mailed to or ~~otherwise returned to~~ received by the election administrator but the elector dies between the time of balloting and election day, the deceased elector's ballot must be counted."

**Section 26.** Section 13-13-211, MCA, is amended to read:

**"13-13-211. Time period for application.** (1) Except as provided in 13-13-222, 13-21-210, and subsection (2) of this section, an application for an absentee ballot must be made before noon on the day before the election.

(2) A qualified elector who is prevented from voting at the polls as a result of illness or health emergency occurring between 5 p.m. of the Friday preceding the election ~~and noon~~ and before the close of polls on election day may request to vote by absentee ballot as provided in 13-13-212(2).

(3) An absentee ballot cast pursuant to subsection (2) must be received prior to 8 p.m. on election day pursuant to 13-13-201."

**Section 27.** Section 13-13-212, MCA, is amended to read:

**"13-13-212. Application for absentee ballot -- special provisions -- annual absentee ballot list.**

(1) (a) Except as provided in subsection (1)(b), an elector may apply for an absentee ballot by using a standard application form provided by rule by the secretary of state pursuant to 13-1-210 or by making a written request, which must include the applicant's birth date and must be signed by the applicant. The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(b) A person who holds a power of attorney from an absent uniformed services elector may apply for an absentee ballot for that election on behalf of the uniformed services elector. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot



is delivered in person by the ~~special~~ absentee election board or by an authorized election official as provided for in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the ~~special~~ absentee election board or by an authorized election official at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under ~~this subsection (2)(a)~~ (c) must be received by the election administrator ~~within the time period specified in 13-13-211(2)~~ within the time period specified in 13-13-211(2).

~~—————(3) An elector who has made a request for an absentee ballot by one of the methods provided in this section may, in the event of the death of a candidate after the primary election but before the general election, make a request for a replacement ballot. The request for a replacement ballot may be made orally to the election administrator.~~

~~(4)(3)~~ (a) An elector may at any time request to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote ~~or only for each subsequent federal election in which the elector is eligible to vote for~~ as long as the elector remains qualified to vote and resides at the address provided in the initial application. The request may be made when the individual applies for voter registration using the standard application form provided for in 13-1-210.

(b) The election administrator shall annually mail a forwardable address confirmation form to each elector who has requested an absentee ballot for subsequent elections. The address confirmation form must request the elector's driver's license number or the last four digits of the elector's social security number. The address confirmation form must be mailed in January. The address confirmation form is for elections to be held between February 1 following the mailing through January of the succeeding year. The elector shall sign the form, indicate the address to which the absentee ballot should be sent, provide the elector's driver's license number or the last four digits of the elector's social security number, and return the form to the election administrator. If the form is not completed and returned, the election administrator shall remove the elector from the annual absentee ballot list.

(c) An elector who has been removed from the annual absentee ballot list may subsequently request to be mailed an absentee ballot for each subsequent election.

~~(5)(4)~~ In a mail ballot election, ballots must be sent under mail ballot procedures rather than under the absentee ballot procedures set forth in subsection ~~(4)~~ (3)."

**Section 28.** Section 13-13-213, MCA, is amended to read:

**"13-13-213. Transmission of application to election administrator -- delivery of ballot.** (1) All absentee ballot application forms must be addressed to the appropriate county election official office.

(2) Except as provided in subsection (4), the elector may mail the signed application directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector's application and forward it to the election administrator.

(3) (a) The election administrator shall compare the signature on the application with the applicant's signature on the registration card or the agent's signature on the agent designation form. If convinced that the individual making the application is the same as the one whose name appears on the registration card or the agent designation form, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214, subject to 13-13-205.

(b) If no signature is provided or the election administrator is not convinced that the individual signing the application is the same person whose name appears on the registration card or agent designation form, the election administrator shall notify the elector as provided in 13-13-245.

(4) In lieu of the requirement provided in subsection (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the ~~special~~ absentee election board or an authorized election official. Upon receipt of the application, the ~~special~~ absentee election board or authorized election official shall examine the signatures on the application and a copy of the voting registration card or agent designation form to be provided by the election administrator. If the ~~special~~ absentee election board ~~believes~~ or an authorized election official believes that the applicant is the same person as the one whose name appears on the registration card or agent designation form, the ~~special~~ absentee election board or authorized election official shall provide a ballot to the elector when the ballot is available pursuant to 13-13-205."

**Section 29.** Section 13-13-214, MCA, is amended to read:

**"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a) Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election

administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary in a manner that conforms to postal regulations to require the return rather than forwarding of ballots.

(b) The election administrator shall mail the ballots in a manner that conforms to the deadlines established for ballot availability in 13-13-205.

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

(i) the elector has designated the individual, either by a signed letter or by making the designation on the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;

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

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

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

(2) The election administrator shall enclose with the ballots:

(a) a secrecy envelope, free of any marks that would identify the voter; and

(b) ~~an~~ a signature envelope for the return of the ballots. The signature envelope must be self-addressed by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of the signature envelope.

(3) The election administrator shall ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and shall remove the stubs from the ballots, keeping the stubs in numerical order with the application for absentee ballots, if applicable, or in a precinct envelope or container for that purpose.

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

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

- (a) a statewide ballot issue appears on the ballot mailed to the elector; and
- (b) the elector requests a voter information pamphlet."

**Section 30.** Section 13-13-225, MCA, is amended to read:

**"13-13-225. ~~Special absentee~~ Absentee election boards -- members -- appointment.** (1) The election administrator ~~shall~~ may designate and appoint ~~a number of special~~ absentee election boards as needed or authorize one or more election officials to serve in various places to deliver ballots to electors who are entitled to vote by absentee ballot as provided in 13-13-229.

(2) In a partisan election, each ~~special~~ absentee election board or the authorized election officials who are appointed must consist of two members, one from each of the two political parties receiving the highest number of votes in the state during the last preceding general election, if possible. Board members and authorized election officials shall reside in the county in which they serve.

(3) A member of ~~a special~~ an absentee election board or an authorized election official may not be a candidate or a spouse, ascendant, descendant, brother, or sister of a candidate or of a candidate's spouse or the spouse of any one of these if the candidate's name appears on a ballot in the county."

**Section 31.** Section 13-13-226, MCA, is amended to read:

**"13-13-226. Manner of selection.** The election administrator ~~shall~~ may make appointments to ~~the special~~ an absentee election board from lists of qualified electors prepared in substantially the same manner as provided in 13-4-102. If the list is insufficient to make all the appointments required, the election administrator may appoint any qualified registered elector from the county. The election administrator may refuse for cause to appoint or may for cause remove a member of ~~a special~~ an absentee election board."

**Section 32.** Section 13-13-227, MCA, is amended to read:

**"13-13-227. Oath of board members.** Before assuming any of the responsibilities under this part, each member of ~~a special~~ an absentee election board shall take and subscribe the official oath in the same manner as prescribed for an election judge in 13-4-105."

**Section 33.** Section 13-13-228, MCA, is amended to read:

**"13-13-228. Compensation.** (1) Each member of a ~~special~~ an absentee election board is entitled to compensation for the number of hours worked.

(2) Each member of a ~~special~~ an absentee election board is entitled to full reimbursement for actual travel expenses incurred while delivering ballots on election day.

(3) The election administrator shall pay each member the same compensation and certify amounts due in the same manner as for an election judge as provided for in 13-4-106(1)."

**Section 34.** Section 13-13-229, MCA, is amended to read:

**"13-13-229. Voting performed before ~~special~~ absentee election board or authorized election official.** (1) Pursuant to 13-13-212(2), the elector may request that a ~~special~~ an absentee election board or an authorized election official personally deliver a ballot to the elector.

(2) The manner and procedure of voting by use of an absentee ballot under this section must be the same as provided in 13-13-201, except that the elector shall hand the marked ballot in the sealed ~~return~~ signature envelope to the ~~special~~ absentee election board or authorized election official, and the board or official shall deliver the sealed ~~return~~ signature envelope to the election administrator or to the election judges of the precinct in which the elector is registered.

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

(4) An elector who needs assistance in marking the elector's ballot because of physical incapacity or inability to read or write may receive assistance from the ~~special~~ absentee election board or authorized election official appointed to personally deliver the ballot. Any assistance given an elector pursuant to this section must be provided in substantially the same manner as required in 13-13-119."

**Section 35.** Section 13-13-230, MCA, is amended to read:

**"13-13-230. Authorization to increase county mill levy.** Subject to 15-10-420, a county may levy an amount necessary to finance the additional cost of administering a ~~special~~ an absentee election board program pursuant to 13-13-225 through 13-13-229. The mill levy may not be included as part of any existing mill levy or special mill levy assessed by the county. The amount of any mill levy adopted under this section must be

reasonably related to the actual cost of providing services as required by 13-13-225 through 13-13-229."

**Section 36.** Section 13-13-241, MCA, is amended to read:

**"13-13-241. Examination of absentee ballot return signature envelopes -- deposit of absentee and unvoted ballots -- rulemaking.** (1) (a) Upon receipt of each absentee ballot signature envelope, an election administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on the elector's voter registration card with the signature on the return signature envelope.

(b) If the elector is legally registered and the signature on the return signature envelope matches the signature on the absentee ballot application or on the elector's voter registration card, the election administrator or an election judge shall handle the ballot as a regular ballot.

(c) (i) If the elector is provisionally registered and the signature on the return signature envelope matches the signature on the absentee ballot application or on the elector's voter registration card, the election administrator or an election judge shall open the outer return signature envelope and determine whether the elector's voter identification and eligibility information, if enclosed pursuant to 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

(ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot must be handled as a regular ballot.

(iii) If voter identification or eligibility information was not enclosed or the information enclosed is insufficient to legally register the elector, the ballot must be handled as a provisional ballot under 13-15-107.

(2) If a voted absentee ballot has not been placed in a secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the ballot.

(3) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes. If an unvoted party ballot is not received, the election administrator shall process the voted party ballot as if the unvoted party ballot had been received.

(4) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector as provided in 13-13-245.

(5) If the signature on the absentee ballot return signature envelope does not match the signature on the absentee ballot request form or on the elector's voter registration card or if there is no signature on the absentee ballot return signature envelope, the election administrator shall notify the elector as provided in

13-13-245.

(6) If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-13-245.

(7) After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official may, in the presence of a poll watcher, open the secrecy envelope and place the ballot in the proper, secured ballot box until tabulation occurs on election day.

(8) The election administrator shall safely and securely keep the absentee ballots in the election administrator's office until delivered by the election administrator to the election judges.

(9) The secretary of state shall develop administrative rules to establish the process and procedures to be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes during the early preparation period. The rules must include but are not limited to:

- (a) the allowable distance from the observers to the judges and ballots;
- (b) the security in the observation area;
- (c) secrecy of votes during the preparation of the ballots; and
- (d) security of the secured ballot boxes in storage until tabulation procedures begin on election day."

**Section 37.** Section 13-13-244, MCA, is amended to read:

**"13-13-244. Opening of return signature envelopes after deposit.** If a return signature envelope containing an absentee ballot has been deposited unopened in the ballot box and the envelope has not been marked rejected, the return signature envelope must be processed as provided in 13-13-241."

**Section 38.** Section 13-13-245, MCA, is amended to read:

**"13-13-245. Notice to elector -- opportunity to resolve questions.** (1) As soon as possible after receipt of an elector's absentee ballot application or return signature envelope, the election administrator shall give notice to the elector by the most expedient method available if the election administrator ~~has not received~~ ~~or is unable to verify the elector's or agent's signature under 13-13-213 or 13-13-241.~~ determines that:

- (a) the elector's ballot is to be handled as a provisional ballot;
- (b) the validity of the ballot is in question; or

(c) the election administrator has not received or is unable to verify the elector's or agent's signature under 13-13-213 or 13-13-241.

(2) The election administrator shall inform the elector that, prior to 8 p.m. on election day, the elector may:

(a) by mail, facsimile, electronic means, or in person, resolve the issue that resulted in the ballot being handled as a provisional ballot, confirm the validity of the ballot, or verify the elector's or agent's signature or provide a signature, after proof of identification, by affirming that the signature is in fact the elector's, by completing a new registration card containing the elector's current signature, or by providing a new agent designation form; or

(b) if necessary, request and receive a replacement ballot pursuant to 13-13-204.

(3) The ballot of an elector who fails to provide information pursuant to subsection (2) must be handled as a provisional ballot pursuant to 13-15-107.

(4) (a) If a ballot is returned as undeliverable, the election administrator shall investigate the reason for the return.

(b) An elector must be provided with:

(i) the elector's undeliverable ballot upon notification by the elector of the elector's correct mailing address; or

(ii) a replacement ballot if a request has been made pursuant to 13-13-204."

**Section 39.** Section 13-13-301, MCA, is amended to read:

**"13-13-301. Challenges.** (1) An elector's right to vote may be challenged at any time by any registered elector by the challenger filling out and signing an affidavit stating the grounds of the challenge and providing any evidence supporting the challenge to the election administrator or, on election day, to an election judge.

(2) A challenge may be made on the grounds that the elector:

(a) is of unsound mind, as determined by a court;

(b) has voted before in that election;

(c) has been convicted of a felony and is serving a sentence in a penal institution;

(d) is not registered as required by law;

(e) is not 18 years of age or older;



(f) has not been, for at least 30 days, a resident of the county in which the elector is offering to vote, except as provided in 13-2-514;

(g) is a provisionally registered elector whose status has not been changed to a legally registered voter;

or

(h) does not meet another requirement provided in the constitution or by law.

(3) When a challenge has been made under this section, unless the election administrator determines without the need for further information that the challenge is insufficient, ~~then without the need for further information:~~

(a) prior to the close of registration under 13-2-301, the election administrator shall question the challenger and the challenged elector and may question other persons to determine whether the challenge is sufficient or insufficient to cancel the elector's registration under 13-2-402; or

(b) after the close of registration or on election day, the election administrator or, on election day, the election judge shall allow the challenged elector to cast a provisional paper ballot, which must be handled as provided in 13-15-107.

(4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the challenge and swear that the elector is eligible to vote.

(b) If the challenge was not made in the presence of the elector being challenged, the election administrator or election judge shall notify the challenged elector of who made the challenge and the grounds of the challenge and explain what information the elector may provide to respond to the challenge. The notification must be made:

(i) within 5 days of the filing of the challenge if the election is more than 5 days away; or

(ii) on or before election day if the election is less than 5 days away.

(c) The election administrator or, on election day, the election judge shall also provide to the challenged elector a copy of the challenger's affidavit and any supporting evidence provided.

(5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide standardized affidavit forms for challengers and challenged electors."

**Section 40.** Section 13-13-602, MCA, is amended to read:

**"13-13-602. Fail-safe and provisional voting by mail.** (1) To ensure the election administrator has

information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer ~~return~~ signature envelope, together with the voted ballot in the secrecy envelope, a copy of a current and valid photo identification with the elector's name or a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address or other information necessary to determine the elector's eligibility to vote.

(2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

(a) a provisionally registered elector voting by mail does not enclose with the ballot the information described in subsection (1);

(b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility;

or

(c) the elector's name does not appear on the precinct register."

**Section 41.** Section 13-13-603, MCA, is amended to read:

**"13-13-603. Rulemaking on provisional voting, absentee ballots, and challenged ballots.** (1) The secretary of state shall adopt rules to:

(a) implement the provisions of 13-13-114 and this part concerning verification of voter identification and eligibility;

(b) establish standards for determining the sufficiency of information provided on absentee ballot ~~return~~ signature envelopes pursuant to 13-13-241;

(c) implement the provisions of 13-15-107 on the handling and counting of provisional and challenged ballots, including the establishment of procedures for verifying voter registration and eligibility information with respect to the ballots.

(2) The rules may not conflict with rules established under 13-2-109."

**Section 42.** Section 13-14-112, MCA, is amended to read:

**"13-14-112. Declarations for nomination -- fee -- filing.** (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. A candidate may not file for more than one public office.

(2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any principles or measures that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the office that the individual seeks.

(4) Declarations must be filed:

(a) in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201; and

(b) within the applicable filing period provided in 13-10-201~~(6)(a)~~(7)(a) or ~~(6)(b)~~ (7)(b) for the office that the individual seeks."

**Section 43.** Section 13-14-113, MCA, is amended to read:

**"13-14-113. Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for which a salary or fees are not paid shall file with the appropriate official a petition for nomination or a declaration for nomination containing the information and the oath of the candidate required for a declaration of nomination in a form prescribed by the secretary of state.

(2) Petitions for nomination or declarations for nomination must be filed within the applicable filing period provided in 13-10-201~~(6)(a)~~(7)(a) or ~~(6)(b)~~ (7)(b).

(3) A candidate may not file for more than one public office."

**Section 44.** Section 13-15-107, MCA, is amended to read:

**"13-15-107. Handling and counting provisional and challenged ballots.** (1) To verify eligibility to vote, a provisionally registered ~~elector~~ individual who casts a provisional ballot has until 5 p.m. on the day after the election to provide valid identification or eligibility information either in person, by facsimile, by electronic means, or by mail postmarked no later than the day after the election.

(2) (a) If a legally registered ~~elector~~ individual casts a provisional ballot because the ~~elector~~ individual failed to provide sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the signature of the ~~elector~~ individual or the ~~elector's~~ individual's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the ~~elector's~~ individual's voter registration card or the agent's designation form.

(b) If the signatures match, the election administrator shall handle the ballot as provided in subsection (5).

(c) If the signatures do not match and the elector individual or the elector's individual's agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

(3) A provisional ballot must be counted if the election administrator verifies the elector's individual's identity or eligibility pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the elector's individual's identity or eligibility under the rules, the elector's individual's provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the grounds that the elector individual is of unsound mind or serving a felony sentence in a penal institution, the elector's individual's provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the election that a court has established that the elector individual is of unsound mind or that the elector individual has been convicted and sentenced and is still serving a felony sentence in a penal institution.

(4) The election administrator shall provide an elector individual who cast a provisional ballot but whose ballot was or was not counted with the reasons why the ballot was or was not counted.

(5) A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the elector's individual's voter information is:

- (a) verified before 5 p.m. on the day after the election; or
- (b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

(6) Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth day after the election."

**Section 45.** Section 13-15-108, MCA, is amended to read:

**"13-15-108. Rejected ballots -- handling provided by rule.** (1) All rejected absentee ballots, the absentee ballot applications, and all absentee ballot ~~return~~ signature envelopes must be handled and marked as provided under rules adopted by the secretary of state.

(2) After being handled and marked as provided in this section, all rejected ballots must be placed in a package or container in which the voted ballots are to be placed and the package or container must be sealed, dated, and marked as provided under rules adopted by the secretary of state. After a package or container is sealed pursuant to this subsection ~~(3)~~ (2), a package or container may not be opened without a court order."

**Section 46.** Section 13-15-201, MCA, is amended to read:

**"13-15-201. Preparation for count -- absentee ballot count procedures.** (1) Subject to 13-10-311, to prepare for a count of ballots, the counting board or, if appointed, the absentee counting board shall take ballots out of the box to determine whether each ballot is single.

(2) The board shall count all ballots to ensure that the total number of ballots corresponds with the total number of names in the pollbook.

(3) If the board cannot reconcile the total number of ballots with the pollbook, the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. Each judge on the board shall sign the report.

(4) A ballot that is not marked as official is void and may not be counted unless all judges on the board agree that the marking is missing because of an error by election officials, in which case the ballot must be marked "unmarked by error" on the back and must be initialed by all judges.

(5) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were ~~voted~~ marked by one elector, the ballots must be rejected and handled as provided in 13-15-108, otherwise they must be counted.

(6) Only valid absentee ballots may be counted in an election conducted under this chapter.

(7) For the purpose of this chapter, a ~~voted~~ marked absentee ballot is valid only if:

(a) the elector's signature on the affirmation on the ~~return~~ signature envelope is verified pursuant to 13-13-241; and

(b) it is received before 8 p.m. on election day, except as provided in 13-21-206 and 13-21-207.

(8) (a) A ballot is invalid if:

(i) problems with the ballot have not been resolved pursuant to 13-13-245;

(ii) any identifying marks are placed on the ballot by the elector, which must result in the immediate

rejection of the ballot without notice to the elector; or

(iii) except as provided in subsection (8)(b), more than one ballot is enclosed in a single return signature or secrecy envelope.

(b) The provisions of subsection (8)(a)(iii) do not apply if:

(i) there are multiple elections being held at the same time and the envelope contains only one ballot for each election; or

(ii) the return signature envelope contains ballots from the same household, each ballot is in its own secrecy envelope, and the return signature envelope contains a valid signature for each elector who has returned a ballot."

**Section 47.** Section 13-15-206, MCA, is amended to read:

**"13-15-206. Counting votes -- uniformity -- rulemaking -- definitions.** (1) When conducting vote counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and determine the validity of each vote in a uniform manner as provided in this section.

(2) A manual count or recount of votes must be conducted as follows:

(a) One election judge on the board shall read the ballot while the two other judges on the board shall each record on an official tally sheet the number of valid votes cast for each individual or ballot issue. Write-in votes must be counted in accordance with subsection (5) and rules adopted pursuant to subsection (7). If a vote has not been cast according to instructions, the vote must be considered questionable and the entire ballot must be set aside and votes on the ballot must be handled as provided in subsection (4).

(b) (i) After the vote count is complete, the tally sheets of the two judges recording the votes must be compared.

(ii) If the two tallies match, the judges shall record in the ~~pollbook~~ official results records:

(A) the names of all individuals who received votes;

(B) the offices for which individuals received votes;

(C) the total votes received by each individual as shown by the tally sheets; and

(D) the total votes received for or against each ballot issue, if any.

(iii) If the tallies do not match, the count must be conducted again as provided in this subsection (2) until the two tallies match.

(3) (a) When a voting system is counting votes:

- (i) if a vote is recognized and counted by the system, it is a valid vote;
- (ii) if a vote is not recognized and counted by the system, it is not a valid vote;
- (iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).

(b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an ~~unvoted~~ unmarked ballot or an overvote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4).

(c) If an election administrator or counting board has reason to believe that a voting system is not functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.

(d) After all valid votes have been counted and totaled, the judges shall record in the ~~pollbook~~ official results records the information specified in subsection (2)(b)(ii).

(4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote according to rules adopted by the secretary of state.

(ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly determined, the vote is valid and must be counted according to the voter's intent.

(iii) If a majority of the counting board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be processed by the voting system.

(5) A write-in vote may be counted only if:

(a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or  
 (ii) pursuant to 13-10-211(8), a declaration of nomination was not filed and the write-in vote identifies an individual who is qualified for the office; and

(b) the oval, box, or other designated voting area on the ballot is marked.

(6) A vote is not valid and may not be counted if the elector's choice cannot be determined as provided in this section.

(7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type

of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that all votes are treated equally among jurisdictions using similar ballot types and voting systems.

(8) Local election administrators shall adopt policies to govern local processes that are consistent with the provisions of this title and that provide for:

- (a) the security of the counting process against fraud;
- (b) the place and time and public notice of each count or recount;
- (c) public observance of each count or recount, including observance by representatives authorized under 13-16-411;
- (d) the recording of objections to determinations on the validity of an individual vote or to the entire counting process; and
- (e) the keeping of a public record of count or recount proceedings.

(9) For purposes of this section, "overvote" means an elector's vote that has been interpreted by the voting system as an elector casting more votes than allowable for a particular office or ballot issue."

**Section 48.** Section 13-15-401, MCA, is amended to read:

**"13-15-401. Governing body as board of county canvassers.** (1) The governing body of a county or consolidated local government is ex officio a board of county canvassers and shall meet as the board of county canvassers at the usual meeting place of the governing body within ~~3 to~~ 14 days after each election, at a time determined by the board, to canvass the returns.

(2) If one or more of the members of the governing body cannot attend the meeting, the member's place must be filled by one or more county officers chosen by the remaining members of the governing body so that the board of county canvassers' membership equals the membership of the governing body.

(3) The governing body of any political subdivision in the county that participated in the election may join with the governing body of the county or consolidated local government in canvassing the votes cast at the election.

(4) The election administrator is secretary of the board of county canvassers and shall keep minutes of the meeting of the board and file them in the official records of the administrator's office."

**Section 49.** Section 13-16-201, MCA, is amended to read:



**"13-16-201. Conditions under which recount to be conducted.** (1) A recount must be conducted if:

(a) a candidate for a precinct office or for a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, is defeated by a margin not exceeding 1/4 of 1% of the total votes cast or by a margin not exceeding 10 votes, whichever is greater, and the defeated candidate, within 5 days after the official canvass, files with the election administrator a verified petition stating that the candidate believes that a recount will change the result and that a recount of the votes for the office or nomination should be conducted;

(b) a candidate for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court is defeated by a margin not exceeding 1/4 of 1% of the total votes cast for all candidates for the same position and the defeated candidate, within 5 days after the official canvass, files a petition with the secretary of state as set forth in subsection (1)(a). The secretary of state shall immediately notify by ~~certified mail~~ each election administrator whose county includes any precincts that voted for the office, and a recount must be conducted in those precincts.

(c) a question submitted to the vote of the people of a county, municipality, or district within a county is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the election administrator. This petition must be signed by not less than 10 electors of the jurisdiction and must be filed within 5 days after the official canvass.

(d) a question submitted to the vote of the people of the state is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 100 electors of the state, representing at least five counties of the state, and must be filed within 5 days after the official canvass.

(e) a question submitted to the vote of the people of a multicounty district is decided by a margin not exceeding 1/4 of 1% of the total votes cast for and against the question and a petition as set forth in subsection (1)(a) is filed with the secretary of state. This petition must be signed by not less than 25 electors of the district, representing at least two counties, and must be filed within 5 days after the official canvass.

(f) a canvassing board petitions for a recount as provided in 13-15-403.

(2) If the election is a school election, the petition is filed with the filing officer with whom the declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

(3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall

immediately notify each election administrator of the filing of the petition, and a recount must be conducted in all precincts in each affected county."

**Section 50.** Section 13-16-211, MCA, is amended to read:

**"13-16-211. Recounts allowed if bond posted to cover all costs.** (1) If a candidate for a public office is defeated by a margin exceeding 1/4 of 1% but not exceeding 1/2 of 1% of the total votes cast for all candidates for the same position, the candidate may, within 5 days after the official canvass, file with the officer with whom the candidate's declaration or petition for nomination was filed a petition stating that the candidate believes a recount will change the result of the election.

(2) The unsuccessful candidate shall post a bond with the ~~clerk and recorder~~ election administrator of the county in which the candidate resides. The bond must be in an amount set by the ~~clerk and recorder~~ election administrator sufficient to cover all costs of the recount incurred by each county in which a recount is sought, ~~including loss of time of regular employees caused by absence from their regular duties~~ which may include the following:

(a) compensation for the county recount board, the election administrator, and any additional personnel needed to participate in the recount; and

(b) necessary supplies and travel related to the recount.

(3) Upon the filing of a petition and posting of a bond under this section, the ~~board of county canvassers~~ county recount board, as designated in 13-16-101, in each county affected shall meet and recount the ballots specified in the petition."

**Section 51.** Section 13-16-417, MCA, is amended to read:

**"13-16-417. Sealing ballots and voting systems.** (1) When a recount of paper ballots ~~that was conducted using a voting system~~ is finished, each ballot must again be sealed in the same package or envelope in the presence of the election administrator and the county recount board and must be delivered to the election administrator for custody.

~~———— (2) All voting systems must be secured as provided in rules adopted under 13-17-211.~~

~~(3)~~(2) All other materials used in the recount that are required to be sealed must be resealed in the same manner and delivered to the election administrator for custody."

**Section 52.** Section 13-17-203, MCA, is amended to read:

**"13-17-203. Publication of information concerning voting systems.** (1) Not more than 10 or less than 2 days before an election at which a voting system will be used by voters, the election administrator shall broadcast on radio or television, as provided in 2-3-105 through 2-3-107, or publish in a newspaper of general circulation in the county:

- (a) a diagram showing the voting system to be used by voters and a sample of the ballot layout (in newspaper only);
  - (b) a statement of the locations where voting systems to be used by voters are on public exhibition; and
  - (c) instructions on how to vote.
- (2) The election administrator shall select the method of notification that the election administrator believes is best suited to reach the largest number of potential electors."

**Section 53.** Section 13-17-211, MCA, is amended to read:

**"13-17-211. Uniform procedures for using voting systems.** (1) For each voting system approved under 13-17-101, the secretary of state shall adopt rules specifying the procedures to be uniformly applied in elections conducted with the voting system.

- (2) The rules must, at a minimum, specify procedures that address the following:
  - (a) performance testing and certification under 13-17-212;
  - (b) how electors ensure the proper disposition of a ballot pursuant to 13-13-117(2);
  - (c) the procedures to be followed if the comparison under 13-15-206(2)(b) reveals discrepancies;
  - (d) how to operate and test the system during counts; and
  - (e) the security measures necessary to secure the voting system before, during, and after an election; including security following a recount under 13-16-417."

**Section 54.** Section 13-19-102, MCA, is amended to read:

**"13-19-102. Definitions.** As used in this chapter, the following definitions apply:

- (1) "Ballot" means the ballot or set of ballots that is to be returned by a specified election day.
- (2) "Election day" is the date established by law on which a particular election would be held if that

election were being conducted by means other than a mail ballot election.

(3) "Political subdivision" means a political subdivision of the state, including a school district.

(4) "Secrecy envelope" means an envelope used to contain the elector's ballot and that is designed to conceal the elector's ballot and to prevent that elector's ballot from being distinguished from the ballots of other electors.

~~\_\_\_\_\_ (5) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:~~

~~\_\_\_\_\_ (a) allow election officials, upon examination of the outside of the envelope, to determine that the ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and~~

~~\_\_\_\_\_ (b) allow it to be used in the United States mail."~~

**Section 55.** Section 13-19-106, MCA, is amended to read:

**"13-19-106. General requirements for mail ballot election.** A mail ballot election must be conducted substantially as follows:

(1) Subject to 13-12-202, official mail ballots must be prepared and all other initial procedures followed as provided by law, except that mail ballots must be paper ballots and are not required to have stubs.

(2) An official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

(3) Each signature envelope must contain a form that is the same as the form for absentee ballot ~~return~~ signature envelopes and that is prescribed by the secretary of state for the elector to verify the accuracy of the elector's address or notify the election administrator of the elector's correct mailing address and to return the corrected address with the voted ballot in the manner provided by 13-19-306.

(4) The elector shall mark the ballot and place it in a secrecy envelope.

(5) (a) The elector shall then place the secrecy envelope containing the elector's ballot in a signature envelope and mail it or deliver it in person to a place of deposit designated by the election administrator.

(b) Except as provided in 13-21-206 and 13-21-207, the voted ballot must be received before 8 p.m. on election day.

(6) Election officials shall first qualify the voted ballot by examining the signature envelope to determine whether it is submitted by a qualified elector who has not previously voted in the election.

(7) If the voted ballot qualifies and is otherwise valid, officials shall then open the signature envelope and remove the secrecy envelope, which must be deposited unopened in an official ballot box.

(8) Except as provided in 13-19-312, after the close of voting on election day, voted ballots must be counted and canvassed as provided in Title 13, chapter 15."

**Section 56.** Section 13-19-304, MCA, is amended to read:

**"13-19-304. Voting by nonregistered electors.** (1) For any election being conducted under this chapter by a political subdivision that allows individuals to vote who are not registered electors, the individual may vote by appearing in person at the election administrator's office or by providing materials by mail, facsimile, or electronic means and demonstrating that the individual possesses the qualifications required for voting.

(2) An individual complying with subsection (1) before official ballots are available may provide a card to the election administrator containing the signature of the individual or the individual's agent designated pursuant to 13-1-116 and the address to which the ballot is to be mailed. The signature provided must be used for verification when the mail ballot is returned.

(3) An individual complying with subsection (1) after official ballots are available and before ~~the close of the polls~~ 8 p.m. on election day must be permitted to vote at that time."

**Section 57.** Section 13-21-210, MCA, is amended to read:

**"13-21-210. Application for absentee ballots.** (1) (a) A United States elector may apply for a regular absentee ballot as follows:

(i) by making a written request, which must include the elector's birth date and signature;

(ii) by properly completing, signing, and returning to the election administrator the federal post card application;

(iii) by making an electronic request that includes the elector's birth date and affirmation of the voter's eligibility to vote under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff, et seq.; or

(iv) by submitting to the election administrator the standard application form provided for in 13-1-210 when registering to vote.

(b) A person who holds a power of attorney from an absent uniformed services elector may apply for an absentee ballot for that election on behalf of the uniformed services elector. The applicant shall provide a copy

of the power of attorney authorizing the request for an absentee ballot along with the application.

(2) An application for a regular absentee ballot must be received by the appropriate county election administrator by the time specified in 13-2-304 for late registration.

(3) An application under this section is valid for all federal, state, and local elections in the calendar year in which the application is made unless an elector requests to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote ~~or only for each subsequent federal election in which the elector is eligible to vote~~ for as long as the elector remains eligible to vote and resides at the address provided in the initial application.

(4) If an elector fails to provide the address confirmation required by 13-13-212, the elector must be removed from the annual absentee ballot list. An elector who is removed from the annual absentee ballot list will continue to receive absentee ballots during the period covered in the elector's initial application under this section.

(5) The elector's county election administrator shall provide the elector with a regular absentee ballot for the elections described in subsection (3) as soon as the ballots are printed, but not later than 45 days before either a federal primary election, federal general election, or federal special election."

**Section 58.** Section 13-21-212, MCA, is amended to read:

**"13-21-212. Mailing ballots to United States elector.** Ballots mailed to a United States elector must be handled as prescribed in 13-13-214, except that both the envelope in which a ballot is mailed to the elector and the ~~return~~ signature envelope for the ballot must have printed across its face the information and graphics and be of the color prescribed by the secretary of state consistent with the regulations established by the federal election commission, the U.S. postal service, or other federal agency."

**Section 59.** Section 13-35-218, MCA, is amended to read:

**"13-35-218. Coercion or undue influence of voters.** (1) A person, directly or indirectly, individually or through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate, the ticket of any political party, or any ballot issue before the people, may not:

(a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person;  
or

(b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury,

damage, harm, or loss upon or against any person.

~~(2) A person who is a minister, preacher, priest, or other church officer or who is an officer of any corporation or organization, religious or otherwise, may not, other than by public speech or print, urge, persuade, or command any voter to vote or refrain from voting for or against any candidate, political party ticket, or ballot issue submitted to the people because of the person's religious duty or the interest of any corporation, church, or other organization:~~

~~(3)~~(2) A person may not, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or to refrain from giving the elector's vote at any election.

~~(4)~~(3) A person may not, in any manner, interfere with a voter lawfully exercising the right to vote at an election in order to prevent the election from being fairly held and lawfully conducted.

~~(5)~~(4) A person on election day may not obstruct the doors or entries of any polling place or engage in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way interferes with the election process or obstructs the access of voters to or from the polling place."

**Section 60.** Section 13-37-126, MCA, is amended to read:

**"13-37-126. Names not to appear on ballot.** (1) The name of a candidate may not appear on the official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required by this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) (a) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's name may not appear on the official ballot.

(b) The commissioner shall provide the notification:

(i) within 8 calendar days after the ~~close of the~~ earliest certification deadline provided in 13-10-208(1) for primary elections held pursuant to 13-1-107(1); or

(ii) by the earliest date specified under 13-10-208(2) for the county election administrator to certify the

ballot for primary elections held pursuant to 13-1-107(2) or (3); and

(iii) by no later than 7 days before the ballot certification deadline provided in 13-12-201 for general elections."

**Section 61.** Section 13-38-201, MCA, is amended to read:

**"13-38-201. Election of committee representatives at primary -- vacancies -- tie votes.** (1) Except as provided in subsection (4), each political party shall elect at each primary election one person of each sex to serve as committee representatives for each election precinct. The committee representatives must be residents and registered voters of the precinct.

(2) An elector may be placed in nomination for precinct committee representative by a declaration of nomination, signed by the elector, notarized, and filed in the office of the county election administrator within the time for filing declarations naming candidates for nomination at the regular biennial primary election.

(3) Except as provided in subsection (4), the names of candidates for precinct committee representative of each political party must appear on the party ticket in the same manner as other candidates and are voted for in the same manner as other candidates.

(4) If the number of candidates nominated for a party's precinct committee representatives is less than or equal to the number of positions to be elected, the election administrator may give notice that a party's precinct committee election will not be held in that precinct.

(5) If a party precinct committee election is not held pursuant to subsection (4), the election administrator shall declare elected by acclamation the candidate who filed for the position or who filed a declaration of intent to be a write-in candidate. The election administrator shall issue a certificate of election to the designated party.

(6) Write-in votes for precinct committee representatives may be counted as specified in 13-15-206(5) only if the individual whose name is written in has filed a declaration of intent as a write-in candidate by the deadline prescribed in 13-10-211(1).

(7) In the case of a tie vote for a precinct committee representative position, the county central committee shall determine a winner.

~~(7)~~(8) Pursuant to 13-38-101, a vacancy in a precinct committee representative position must be filled by the party governing body as provided in its rules."



**Section 62. Directions to code commissioner.** (1) Whenever the phrase "statewide voter registration database" or the word "database" meaning the statewide voter registration database appears in the Montana Code Annotated or in legislation enacted during the 63rd legislative session, the code commissioner shall change the phrase to "statewide voter registration system" and the word to "system".

(2) Whenever the words "return envelope" appear in Title 13 of the Montana Code Annotated or in legislation enacted in Title 13 during the 63rd legislative session, the code commissioner shall change the words to "signature envelope".

**Section 63. Coordination instruction.** If both House Bill No. 126 and [this act] are passed and approved and if both contain sections amending 13-10-209, then the sections amending 13-10-209 are void and 13-10-209 must be amended as follows:

**"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots, except that there must be separate ballots for each political party entitled to participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear ~~opposite~~ with each candidate's name.

(b) Nonpartisan offices and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

- (i) each section is clearly identified as separate; and
- (ii) the nonpartisan offices and ballot issues appear on each party's ballot; and
- (iii) ~~with respect to ballot issues, written approval is obtained as provided in~~ ballot issues are prepared in accordance with 13-27-502.

(2) ~~An~~ Except as provided in subsection (3), an election administrator does not need to prepare a primary ballot for a political party if:

- (a) the party does not have candidates for more than half of the offices to appear on the ballot; ~~or~~ and
- (b) no more than one candidate files for nomination by that party for any of the offices to appear on the ballot.

(3) Subsection (2) does not apply to elections for precinct committee offices. If more than one candidate files for a precinct committee office from a party that will not have a primary ballot prepared, that party shall select

the candidate to fill the office.

~~(3)~~(4) If, pursuant to subsection (2), in a primary election held under 13-1-107(1) a primary ballot for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

~~(4)~~(5) The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different appearance than the party ballots but must be numbered in the same order as the party ballots.

~~(5)~~(6) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.

~~(6)~~(7) Each elector must receive a set of ballots that includes the party, nonpartisan, and ballot issue choices."

**Section 64. Coordination instruction.** If either House Bill No. 30 or Senate Bill No. 405, or both, and [this act] are passed and approved, then [section 12 of this act] amending 13-2-304 is void.

**Section 65. Effective date.** [This act] is effective January 1, 2014.

- END -

I hereby certify that the within bill,  
HB 0120, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

HOUSE BILL NO. 120  
INTRODUCED BY P. INGRAHAM  
BY REQUEST OF THE SECRETARY OF STATE

AN ACT GENERALLY REVISING ELECTION LAWS; CLARIFYING PROCEDURES FOR REGISTERING FOR, VOTING BY, AND COUNTING AN ABSENTEE BALLOT; CLARIFYING THE LATE REGISTRATION PROCESS; REQUIRING AN OATH TO BE PLACED IN THE DECLARATION FOR NOMINATION FOR A CANDIDATE IN A PRIMARY CONTEST; REVISING THE BALLOT REQUIREMENTS AND SELECTION PROCESS FOR PRECINCT COMMITTEE POSITIONS; REVISING THE PROCESS FOR COLLECTING A BALLOT FROM CERTAIN DISABLED ELECTORS; REVISING THE PROVISIONS FOR POSTING BONDS REQUIRED FOR CERTAIN RECOUNTS; ELIMINATING THE PROVISION THAT PROHIBITS CERTAIN RELIGIOUS OFFICIALS AND CORPORATE OFFICERS FROM PARTICIPATING IN CERTAIN ELECTION ACTIVITIES; REQUIRING TIE VOTES IN PRECINCT COMMITTEE ELECTIONS TO BE DETERMINED BY THE COUNTY CENTRAL COMMITTEE; AMENDING SECTIONS 5-2-402, 13-1-101, 13-1-210, 13-2-107, 13-2-108, 13-2-112, 13-2-115, 13-2-122, 13-2-207, 13-2-220, 13-2-301, 13-2-304, 13-10-201, 13-10-203, 13-10-209, 13-10-211, 13-10-302, 13-10-404, 13-10-405, 13-10-503, 13-10-507, 13-13-112, 13-13-118, 13-13-201, 13-13-204, 13-13-211, 13-13-212, 13-13-213, 13-13-214, 13-13-225, 13-13-226, 13-13-227, 13-13-228, 13-13-229, 13-13-230, 13-13-241, 13-13-244, 13-13-245, 13-13-301, 13-13-602, 13-13-603, 13-14-112, 13-14-113, 13-15-107, 13-15-108, 13-15-201, 13-15-206, 13-15-401, 13-16-201, 13-16-211, 13-16-417, 13-17-203, 13-17-211, 13-19-102, 13-19-106, 13-19-304, 13-21-210, 13-21-212, 13-35-218, 13-37-126, AND 13-38-201, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE.