

Amendments to Senate Bill No. 302
1st Reading Copy

Requested by Senator Jon Ellingson

For the Senate State Administration Committee

Prepared by Sheri Heffelfinger
February 18, 2005 (2:27pm)

1. Title, page 1, line 4 through line 10.

Strike: "PROVIDING" on line 4 through "CIRCUMSTANCES;" on line 10

Following: "REVISING" on line 10

Insert: "VOTER REGISTRATION PROVISIONS; REVISING WHEN BALLOTS MUST BE PRINTED; REVISING VOTER IDENTIFICATION REQUIREMENTS; REVISING PROVISIONS ON ABSENTEE VOTING; CLARIFYING HOW REJECTED BALLOTS ARE HANDLED; REVISING PROVISIONS GOVERNING"

2. Title, page 1, line 11 through line 12.

Strike: "13-13-205" on line 11 through "MCA" on line 12

Insert: "13-2-108, 13-2-110, 13-2-115, 13-2-301, 13-2-514, 13-13-201, 13-13-205, 13-13-212, 13-13-213, 13-13-214, 13-13-232, 13-13-233, 13-13-241, 13-13-243, 13-15-107, 13-15-201, 13-17-103, AND 13-17-212, MCA; REPEALING SECTIONS 13-2-302 and 13-15-203, MCA; AND PROVIDING EFFECTIVE DATES"

3. Page 1.

Following: line 14

Strike: everything after the enacting clause

Insert: "NEW SECTION. Section 1. 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) 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 votes at the county election administrator's office.

(2) If an elector has already been sent an absentee ballot for the election, the elector may change the elector's voter registration information only with respect to the next election.

(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."

Insert: "Section 2. 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) procedures and timelines to be used by election administrators when providing the information required in 13-2-123;

(e) technical security of the statewide voter registration database;

(f) 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

(g) 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."

{ Internal References to 13-2-108:

x13-1-101 x13-2-123 x13-2-220 x13-2-513

x13-2-514} "

Insert: "Section 3. Section 13-2-110, MCA, is amended to read:

"13-2-110. Application for voter registration -- sufficiency and verification of information -- identifiers assigned for voting purposes. (1) An individual may apply for voter registration in person or by mail by completing and signing an application for voter registration and providing the application to the election administrator in the county in which the elector resides ~~before the close of registration as provided in 13-2-301.~~

(2) An individual applying by mail shall send the application to the election administrator, postage paid, no later than 15 days after the date it is signed. ~~An application for voter registration properly executed and postmarked on or before the day registration is closed must be accepted for 3 days after the close of registration.~~

(3) Each application for voter registration must be accepted and processed as provided in rules adopted under 13-2-109.

(4) Except as provided in subsection (5):

(a) an applicant for voter registration shall provide the applicant's driver's license number; or

(b) if the applicant does not have a driver's license, the applicant shall provide the last four digits of the applicant's social security number.

(5) If an applicant does not have a driver's license or social security number:

(a) an applicant appearing in person before the election administrator shall provide:

(i) current and valid photo identification, including but not limited to ~~a valid driver's license~~, a school district or postsecondary education photo identification, or a tribal photo identification, with the individual's name; or

(ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.

(b) an applicant applying by mail to register ~~by mail~~ shall also enclose a copy of:

(i) a current and valid photo identification, including but not limited to ~~a valid driver's license~~, a school district or postsecondary education photo identification, or a tribal photo identification, with the individual's name; or

(ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.

(6) (a) If information provided on an application for voter registration is sufficient to be accepted and processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the elector as a legally registered elector.

(b) If information provided on an application for voter registration was sufficient to be accepted but the applicant failed to provide the information required in subsection (4) or (5) or if the information provided was incorrect or insufficient to verify the individual's eligibility to vote, the election administrator shall register the applicant as a provisionally registered elector.

(7) Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under 13-2-109.

(8) The secretary of state shall assign to each elector whose application was accepted a unique identification number for voting purposes and shall establish a statewide uniform method to allow the secretary of state and local election officials to distinguish legally registered electors from provisionally registered electors.

(9) The provisions of this section may not be interpreted to conflict with voter registration accomplished under 13-2-221, 13-21-201, 13-21-203, and 61-5-107 and as provided for in federal

law."

{Internal References to 13-2-110:
x13-2-109 x13-2-205}"

Insert: "Section 4. Section 13-2-115, MCA, is amended to read:

"13-2-115. Certification of statewide voter registration list -- local lists to be prepared. (1) Immediately after regular registration is closed under 13-2-301, the secretary of state shall certify the official statewide voter registration list.

(2) Each election administrator shall have printed from the certified statewide voter registration database lists of all registered electors in each precinct in the county. Except as provided in subsections (5) and (6), names of electors must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used.

(3) 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.

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

(5) 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.

(6) (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 (6)(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 (6)(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."

{ Internal References to 13-2-115:

x2-6-109

x2-6-109

x13-2-108

x13-2-122} "

Insert: "Section 5. Section 13-2-301, MCA, is amended to read:

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

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

(b) publish broadcast a notice specifying the day regular registrations will close on radio or television as provided in 2-3-105 through 2-3-107 or publish the notice in a newspaper of general circulation in the county at least once a week for 3 weeks before the close of registration.

(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).

~~(3)~~ (4) An individual who submits a completed registration form to the election administrator before the deadline ~~deadlines~~ provided in subsection (1) (a) ~~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 ~~next~~ election at the polling place for that elector's precinct.

(5) Subject to the provisions of [section 1], 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 [section 1]."

{ Internal References to 13-2-301:

x13-2-110} "

Insert: "Section 6. Section 13-2-514, MCA, is amended to read:

"13-2-514. Change of residence to another county. (1) Except as provided in subsection (2) (a), an elector who changes residence to a different county within this state shall register in the new county of residence in order to vote in any election unless the change occurs less than 45 days before the election.

(2) An elector who changes residence to a different county 45 days or less before an election may:

(a) vote in person or by absentee ballot in the precinct and county where previously registered; or

(b) update the elector's registration information and vote in the elector's new county of residence, subject to the regular registration provisions of 13-2-301 or the late registration provisions of [section 1].

(3) The registration information of an elector who votes under the provisions of subsection (2) whose information is

changed pursuant to this section must be updated in the statewide voter registration list ~~after the election~~ pursuant to rules adopted under 13-2-108."

{ Internal References to 13-2-514: None. }

Insert: "Section 7. 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 only by paper ballot and 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 envelope;

(d) executing the affidavit printed on the return envelope; and

(e) returning the return envelope with all appropriate enclosures by regular mail, postage prepaid, or by delivering it to the election administrator of the special absentee election board established pursuant to 13-13-225.

(3) (a) The A provisionally registered elector may also enclose in the outer return envelope a copy of the elector's photo identification showing the elector's name, including but 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 ~~shall~~ 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.

~~(b) If the elector fails to provide the information required under subsection (3) (a) or the information provided is insufficient to verify the elector's identity and eligibility, the An elector's absentee ballot must be handled as a provisional ballot provided in 13-13-241.~~"

{ Internal References to 13-13-201:

x13-13-203 x13-13-229 a13-13-241 }

"Section 8. Section 13-13-205, MCA, is amended to read:

"13-13-205. **When paper ballots to be available.** (1) The election administrator shall ensure that paper ballots are printed and available for absentee voting at least:

(a) 30 days prior to an election for those elections held in compliance with ~~13-1-104(1)~~ and 13-1-107(1);

~~(2) (b) For elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2), the election administrator shall ensure that paper ballots are printed and available for absentee voting~~

at least 20 days prior to an election for those elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2); and

(c) 45 days prior to an election held in conjunction with a federal general election in compliance with 13-1-104(1).

~~(3)~~(2) If paper ballots are sent more than 30 days before an election, the election administrator shall include a notice that the voter information pamphlet, when required to be distributed, will be provided pursuant to 13-27-410."

{Internal References to 13-13-205:

x13-13-222}"

Insert: "Section 9. Section 13-13-212, MCA, is amended to read:

"13-13-212. **Application for absentee ballot -- special provisions.** (1) An elector may apply for an absentee ballot, using only a standardized form provided by rule by the secretary of state, 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.

(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 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 at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under this subsection (2) must be received by the election administrator 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."

{Internal References to 13-13-212:

x13-13-211 x13-13-213 x13-13-214 x13-13-229

x13-21-202}"

Insert: "Section 10. 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 election official.

~~(1)~~(2) Except as provided in subsection ~~(3)~~ (4), the elector ~~shall~~ may mail the application directly to the election administrator or deliver the application in person to the

~~election administrator. With the exception of an immediate family member, as defined in 15-30-602, or a guardian, or a third party may not collect applications for absentee ballots from electors the elector's application and forward the applications it to the election administrator.~~

~~(2)(3)~~ The election administrator shall compare the signature on the application with the applicant's signature on the registration card. If convinced the individual making the application is the same as the one whose name appears on the registration card, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214.

~~(3)(4)~~ In lieu of the requirement provided in subsection ~~(1)~~ (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the special absentee election board. Upon receipt of the application, the special absentee election board shall examine the signatures on the application and a copy of the voting registration card to be provided by the election administrator. If the special absentee election board believes that the applicant is the same person as the one whose name appears on the registration card, the special absentee election board shall provide a ballot to the elector."

{Internal References to 13-13-213:

a13-13-214}"

Insert: "Section 11. 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)(b) of this section, as soon as the official paper absentee ballots are printed, the election administrator shall immediately send by 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.

(b) 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;

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

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

(iv) except as provided in subsection (2), the designated person has not previously picked up ballots for four other electors.

(2) The restriction in subsection (1)(b)(iv) does not apply if the election administrator has been given at least 2 business days to prepare the ballots to be delivered to the third party.

~~(2)~~(3) The election administrator shall enclose with the ballots:

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

(b) an envelope for the return of the ballots. The 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 envelope.

~~(3)~~(4) The election administrator shall ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and remove the stubs from the ballots, attaching the stubs to the elector's absentee ballot application.

~~(4)~~(5) 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)~~(6) 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 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."

{Internal References to 13-13-214:

x13-13-213 a13-13-233 x13-21-212}"

Insert: "Section 12. Section 13-13-232, MCA, is amended to read:

"13-13-232. Delivery of ballots and secrecy envelopes to election judges -- ballots to be rejected. (1) If an absentee ballot is received prior to delivery of the official ballots to the election judges, the election administrator shall process it according to 13-13-241 and then deliver the unopened secrecy envelope to the judges at the same time that the ballots are delivered.

(2) If an absentee ballot is received after the official ballots are delivered to the election judges but prior to the close of the polls, the election administrator shall process it according to 13-13-241 and shall then immediately deliver the unopened secrecy envelope to the judges.

(3) If the election administrator receives an absentee ballot for which an application or request was not made or received as required by this part, the election administrator shall endorse upon the elector's envelope the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must be handled in the same manner as

provided in 13-13-243(1)."
{Internal References to 13-13-232:
x13-13-233}"

Insert: "Section 13. Section 13-13-233, MCA, is amended to read:

"13-13-233. Issue Issuing and record of recording absentee ballots -- certificate to election judges. (1) Absentee ballots must be official numbered paper ballots beginning with ballot number 1 and following consecutively according to the number of applications for absentee ballots.

(2) The election administrator shall keep a record of all absentee ballots issued.

(3) When the election administrator delivers the voted absentee ballots pursuant to 13-13-232(1), the election administrator shall also provide a certificate stating:

(a) the ballot numbers of the absentee ballots mailed or transmitted pursuant to 13-13-214 or 13-21-207, delivered pursuant to 13-13-229, and or marked in person pursuant to 13-13-222;

(b) the number of ballots to be reserved for late absentee voting pursuant to 13-13-211(2); and

(c) the names of the electors within the precinct to whom the ballots were provided.

(4) The chief election judge shall post in a conspicuous location at the polling place a list of the names of electors appearing on the certificate required under subsection (3)."

{Internal References to 13-13-233:
x13-13-234}"

Insert: "Section 14. Section 13-13-241, MCA, is amended to read:

"13-13-241. Examination of absentee ballot return envelopes -- deposit of absentee and unvoted ballots. (1) (a) As soon as an absentee ballot is received, an election administrator shall compare the signature of the elector on the absentee ballot request with the signature on the absentee ballot return envelope.

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

(c) (i) Except as provided in subsection (2), after comparing the signatures if the elector is provisionally registered and the signature on the return envelop matches the signature on the absentee ballot application, the election administrator or an election judge shall open the outer return envelope and determine whether the elector's voter identification 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 information is sufficient

to legally register the elector, the ballot must be handled as a regular ballot.

(iii) If voter identification 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.

~~(b)(3)~~ In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes.

~~(c)(4)~~ ~~A ballot cast by an elector who provided sufficient information must be handled as provided in subsection (3). A ballot cast by an elector whose voter information is insufficient or whose name does not appear on the precinct register must be handled as a provisional ballot under 13-15-107. The~~ If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector by mail or by the most expedient method available under rules adopted by the secretary of state that the elector's identification information was insufficient and that the elector's ballot will be treated as a provisional ballot until the elector provides sufficient information, pursuant to rules adopted by the secretary of state. If the elector is notified by mail, the election administrator shall provide a self-addressed return envelope along with a description of the information necessary for the absentee elector to reclassify the provisional ballot as a regular ballot.

~~(2)(5)~~ If the signature on the absentee ballot return envelope does not match the signature on the absentee ballot request form, the absentee ballot must be rejected. The election administrator, without opening the absentee ballot return envelope, shall mark across it the reason for rejection. Unopened rejected absentee ballot return envelopes must be handled in the same manner as provided for rejected ballots in 13-13-243(1).

~~(3)(6)~~ After receiving an absentee ballot secrecy envelope, without opening the secrecy envelope, the election judges shall on election day place the secrecy envelope in the proper ballot box."

{Internal References to 13-13-241:

x13-13-232 x13-13-232 x13-13-244 x13-13-603
x13-15-104 x13-15-107}"

Insert: "Section 15. Section 13-13-243, MCA, is amended to read:

"13-13-243. Rejected absentee ballots -- handling provided by rule. (1) ~~The All~~ All rejected absentee ballots, the absentee ballot applications, and all absentee ballot return envelopes shall must be enclosed in an outer envelope and sealed, and the judges shall write on the envelope "~~rejected ballot(s) of absentee elector~~" (writing in the elector's name) handled and

marked as provided under rules adopted by the secretary of state.

(2) The unopened absentee ballot envelope of an elector who has voted in person as provided in 13-13-204 must be marked ~~"voted in person"~~ and ~~initialed by a majority of the election judges~~ handled and marked as provided under rules adopted by the secretary of state.

(3) The unopened absentee ballot envelope of an elector who dies before election day shall must be marked ~~"died before election day"~~ and ~~initialed by a majority of the election judges if they are notified of the death on election day.~~ ~~The election administrator shall make and sign the notation if notice of the death is received before delivery of the absentee ballot to the polling place~~ handled and marked as provided under rules adopted by the secretary of state.

(4) ~~All~~ After being handled and marked as provided in this section, all rejected ballots shall must be placed in the sealed a package or container in which the voted ballots are required 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 (4), a package or container may not be opened without a court order."

{ Internal References to 13-13-243:
x13-13-232 x13-13-241 } "

Insert: "Section 16. 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, an a provisionally registered elector who casts a provisional ballot in person shall provide information to the election administrator as listed below:

(a) present in person at the office of the election administrator by 5 p.m. on the day after the election a photo identification or other identifying document as described in 13-13-114(1)(a);

(b) send by facsimile or electronic mail by 5 p.m. on the day after the election a copy or scanned document that meets the identification requirements of 13-13-114(1)(a); or

(c) mail a nonreturnable copy or nonreturnable original document described in 13-13-114(1)(a) in a self-addressed return envelope provided by the election administrator. If the elector mails a document, the postmark on the envelope must be for the day of the election or the day following the election.

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

(b) If the signatures match, the election administrator

shall handle the ballot as provided in subsection (6).

(c) If the signatures do not match, the ballot must be rejected and handled as provided in 13-13-243.

~~(2)~~(3) The election administrator shall determine prior to an election whether an absentee voter has provided sufficient identification to allow a ballot to be counted. If the information is insufficient, the election administrator shall follow procedures described in 13-13-241 to allow an absentee elector who failed to provide proper identifying information in the outer return envelope to verify eligibility to vote. An absentee elector whose ballot is determined to be provisional has until 5 p.m. on the day after the election to provide valid identification information either in person, by facsimile, by electronic mail, or by mail postmarked on the day of the election or the day after the election.

~~(3)~~(4) A provisional ballot must be counted if the election administrator verifies the elector's eligibility pursuant to rules adopted under 13-13-603. However, a if the election administrator cannot verify the elector's eligibility under the rules, the elector's provisional ballot may not be counted if the election administrator cannot verify the elector's eligibility under the rules must be rejected and handled as provided in 13-13-243.

~~(4)~~(5) The election administrator shall provide an elector who cast a provisional ballot but whose ballot was not counted with the reasons why the ballot was not counted.

~~(5)~~(6) A provisional ballot cast by an elector whose voter information is verified before 5 p.m. on the day after the election 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 ballot."

{ Internal References to 13-15-107:

x13-13-204 x13-13-241 x13-13-301 x13-13-601
x13-13-602 x13-13-603} "

Insert: "Section 17. Section 13-15-201, MCA, is amended to read:

"13-15-201. Preparation for count. (1) (a) Subject to 13-10-311, to prepare for a manual or automatic count of paper ballots before or after the close of the polls, the counting board of election judges designated under 13-15-112 shall take ballots out of the box unopened to determine whether each ballot is single.

(b) If an absentee ballot counting board has been appointed pursuant to 13-15-112, the absentee ballots must be delivered to the absentee ballot counting board and counted as provided in 13-15-104. If an absentee ballot counting board has not been appointed, the regular counting board shall, subject to 13-13-244, remove each absentee ballot secrecy envelope and open it to determine whether the ballot for each election is single. An absentee ballot must be rejected and handled as provided in

13-13-243 if in the envelope there is more than one voted ballot for each election.

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

(d) If the counting 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.

(e) A ballot that is not marked as official is void and may not be counted unless all judges on the counting 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.

(f) 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 by one elector, the ballots must be rejected and handled as provided in 13-13-243; otherwise they must be counted.

(2) For nonpaper ballots, the counting board shall prepare for the official count in a manner prescribed by the secretary of state pursuant to 13-17-211."

{Internal References to 13-15-201:

x13-10-311 x13-10-311 x13-15-207 x13-17-211}"

Insert: "Section 18. Section 13-17-103, MCA, is amended to read:

"13-17-103. Required specifications for voting systems. (1) A voting system may not be approved under 13-17-101 unless the voting system:

- (a) allows an elector to vote in secrecy;
- (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;
- (d) allows an elector to vote only for the candidates of the party selected by the elector in the primary election;
- (e) allows an elector to vote a split ticket in a general election if the elector desires;
- (f) allows each valid vote cast to be registered and recorded within the performance standards adopted pursuant to subsection (2);
- (g) may be protected from tampering for a fraudulent purpose;
- (h) prevents an individual from seeing or knowing the number of votes registered for any candidate or on any ballot issue during the progress of voting;

(i) allows write-in voting; and
(j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;
(k) records votes in a manner that allows the votes to be printed on paper so that votes can be manually counted or audited if necessary; and

(1) allows auditors to access and monitor any software program while it is running on the system to determine whether the software is running properly.

(2) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a benchmark performance standard that must be met in tests by each voting system prior to approval under 13-17-101. The standard must be based on commonly accepted industry standards for readily available technologies."

{Internal References to 13-17-103:

x13-1-202 x13-17-101}"

"Section 19. Section 13-17-212, MCA, is amended to read:

"13-17-212. **Performance certification of voting systems prior to election.** (1) No more than 30 days prior to an election in which a voting system is used, the election administrator shall test and certify that the system is performing properly.

(2) The secretary of state shall ensure that at least 10% of all voting systems in the state have been randomly tested and certified at least once every calendar year.

(3) If any type of direct recording electronic voting system is approved pursuant to 13-17-101 after meeting the requirements of 13-17-103, provision must be made to ensure that, at a minimum, each system is tested and certified as follows:

(a) upon delivery;

(b) no more than 30 days prior to the election; and

(c) on election day.

(4) The test and certification provisions of this section must be conducted implemented according to rules adopted by the secretary of state pursuant to 13-17-211."

{Internal References to 13-17-212:

x13-17-211 x13-17-211}"

Insert: "NEW SECTION. Section 20. {standard} Repealer. Sections 13-2-302 and 13-15-203, MCA, are repealed.

{Internal References to 13-2-302: None.

Internal References to 13-15-203: None.}"

Insert: "NEW SECTION. Section 21. Instruction to code commissioner. Section 13-13-243 is intended to be renumbered and codified in Title 13, chapter 15, part 1."

"NEW SECTION. Section 22. {standard} Effective dates. (1)
Except as provided in subsection (2), [this act] is effective
July 1, 2005.

(2) [Sections 1 and 3 through 6] are effective July 1,
2006."

- END -