





## SENATE STANDING COMMITTEE REPORT

April 2, 2005

Page 1 of 7

Mr. President:

We, your committee on **State Administration** recommend that **House Bill 177** (third reading copy -- blue) be concurred in as amended.

Signed: \_\_\_\_\_

*Carolyn Squires*  
Senator Carolyn Squires, Chair

To be carried by Senator Jeff Essmann

**And, that such amendments read:**

1. Title, page 1, line 14.

**Following:** "VOTE;"

**Insert:** "PROVIDING THAT QUESTIONABLE VOTES ARE NOT VALID VOTES;"

2. Title, page 1, line 17.

**Following:** "SECTIONS"

**Insert:** "13-1-101,"

3. Title, page 1, line 19.

**Following:** "~~13-16-414,~~"

**Insert:** "13-16-414,"

4. Page 1.

**Following:** line 21

**Insert:** "Section 1. 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 who voted in the previous federal general election and whose name is on the active list.

(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

**Committee Vote:**

Yes 11, No 0.

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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) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or

(b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.

(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; and

(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, 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 vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

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

(16) "Individual" means a human being.

(17) "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. 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 approval by the secretary of state of the form of the petition or referral.

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

(19) "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).

(20) "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.

(21) "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.

(22) "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.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

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

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

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

(27) "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.

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

(29) "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.

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

(31) "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 or nonpaper ballot."

{Internal References to 13-1-101:

x13-27-111      x13-37-103      x13-37-228      x13-37-250  
x20-20-421}"

**Renumber:** subsequent sections

5. Page 4, line 21.

**Strike:** "13-15-206(5)"

**Insert:** "13-15-206(4)"

6. Page 7, line 19.

**Strike:** "13-15-206(5)"

**Insert:** "13-15-206(4)"

7. Page 11, line 17.

**Strike:** "13-15-206(5)"

**Insert:** "13-15-206(4)"

8. Page 12, line 2.

**Strike:** "(7)"

**Insert:** "(6)"

9. Page 12, line 3.

**Strike:** "entire" through "subsection (4)"

**Insert:** "vote may not be counted"

10. Page 12, line 14.

**Strike:** "on a paper ballot or nonpaper ballot"

11. Page 12, line 16.

**Strike:** "on a paper" through "system"

**Insert:** "is determined by the system to be an overvote or undervote"

12. Page 12, line 18.

**Strike:** "(7)"

**Insert:** "(6)"

13. Page 12, line 19 through line 22.

**Strike:** "(i)" on line 19 through "(ii)" on line 22

14. Page 12, line 22.

**Strike:** "determines"

**Insert:** "has reason to believe"

15. Page 12, line 24.

**Strike:** "subsection (4) and"

16. Page 12, line 26 through page 13, line 5.

**Strike:** subsection (4) in its entirety

**Renumber:** subsequent subsections

17. Page 14.

**Following:** line 30

**Insert:** "Section 18. Section 13-16-414, MCA, is amended to read:

"13-16-414. Recount of votes using voting system. (1) (a) Before a voting system may be used to automatically recount votes or if the election administrator has reason to believe that during a count conducted pursuant to 13-15-206 the voting system may not be tabulating votes properly, the recount board shall test the automatic tabulating voting system equipment in accordance with rules adopted pursuant to 13-17-211.

(b) If the test does not show any errors, the votes cast for the candidates or on the issues for which a recount is ordered must be recounted by the tabulating equipment voting system as provided in 13-15-206(3).

(c) (i) If any errors are found in the test or if any questions remain as to the accuracy of the voting system, the board shall have the system checked by a qualified individual who did not participate in the original preparation of the system.

(ii) If the errors are corrected, the recount must proceed as provided in 13-15-206(3).

(iii) If the errors are not corrected, the recount must be conducted as provided in subsection (3).

(2) The board may order a recount, which must be conducted as provided in subsection (3), if the board unanimously agrees that a recount is necessary to resolve all questions relating to the election.

(3) (a) A recount of paper ballots under this subsection (3) must be conducted manually as provided in 13-15-206(2).

(b) A recount of ballots cast using a nonpaper-based system must be conducted as provided in rules adopted under 13-17-211."

**Renumber:** subsequent sections

18. Page 15, line 8.

**Following:** "day"

**Insert:** "and is received by 3 p.m. the Monday following the election"

- END -



## SENATE STANDING COMMITTEE REPORT

April 2, 2005

Page 1 of 2

Mr. President:

We, your committee on **State Administration** recommend that **House Bill 297** (third reading copy -- blue) be concurred in as amended.

Signed:

  
Senator Carolyn Squires, Chair

To be carried by Senator Jim Shockley

**And, that such amendments read:**

1. Title, page 1, line 5.

**Following:** "COUNTED;"

**Insert:** "PROVIDING AN EXCEPTION ONLY TO FACILITATE VOTING BY  
DISABLED VOTERS;"

2. Page 1, line 20.

**Strike:** "(2)"

**Insert:** "(3)"

3. Page 1, line 28.

**Following:** "counted"

**Insert:** ", except as provided in subsection (2)"

4. Page 1.

**Following:** line 28

**Insert:** "(2) A direct recording electronic system that does not mark a paper ballot may be used to facilitate voting by a disabled voter pursuant to the Help America Vote Act of 2002, 42 U.S.C. 15301, et seq., if:

(a) (i) a direct recording electronic system that uses a paper ballot has not yet been certified by the federal election assistance commission; or

(ii) a direct recording electronic system that marks a

**Committee Vote:**

Yes 11, No 0.

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paper ballot has not yet been approved by the secretary of state pursuant to 13-17-101; and

(b) the system records votes in a manner that will allow the votes to be printed and manually counted or audited if necessary."

**Renumber:** subsequent subsection

5. Page 2.

**Following:** line 2

**Insert:** "COORDINATION SECTION. **Section 2. Coordination instruction.** If Senate Bill No. 302 and [this act] are both passed and approved and if Senate Bill No. 302 amends 13-17-103 to add a subsection (1)(k) allowing the use of a direct recording electronic voting system, then subsection (1)(k) of Senate Bill No. 302 is void."

- END -



## SENATE STANDING COMMITTEE REPORT

April 2, 2005

Page 1 of 2

Mr. President:

We, your committee on **State Administration** recommend that **House Joint Resolution 19**

(third reading copy -- blue) be concurred in as amended.

Signed:

  
Senator Carolyn Squires, Chair

To be carried by Senator Keith Bales

**And, that such amendments read:**

1. Page 1, line 11.

**Strike:** "17"

**Insert:** "15"

2. Page 1, line 12.

**Following:** "according to"

**Strike:** "a" through "Report"

**Insert:** "an examination conducted by the U.S. Consumer Product  
Safety Commission"

3. Page 1, line 13.

**Strike:** "can"

**Insert:** "may be able to"

4. Page 1, line 14.

**Strike:** "exceeds"

**Insert:** "may exceed"

5. Page 1.

**Strike:** line 17 through line 18 in their entirety

**Committee Vote:**

Yes 11, No 0.

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6. Page 1, line 20.

**Following:** "WHEREAS,"

**Insert:** "although"

**Strike:** "found"

**Insert:** "not yet conclusively proved"

7. Page 1, line 21.

**Following:** "bats"

**Strike:** "that"

**Following:** "them"

**Insert:** ", "

8. Page 1, line 22.

**Strike:** "have" through "this"

**Insert:** "there is at least anecdotal evidence, including the  
death of Brandon Patch, that the use of nonwood bats"

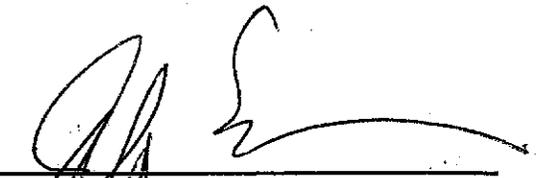
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PROXY VOTE

I, the undersigned, hereby authorize Senator Leurb to

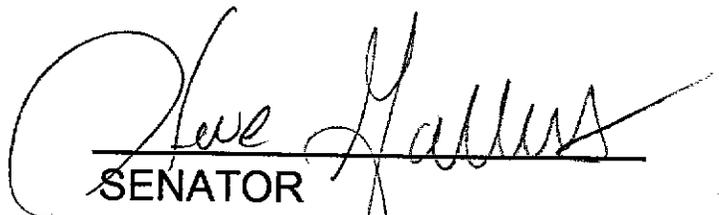
vote my proxy on any issue before the Senate \_\_\_\_\_

Committee held on April 1, 2005.

  
\_\_\_\_\_  
SENATOR  
STATE OF MONTANA

**PROXY VOTE**

I, the undersigned, hereby authorize Senator James to  
vote my proxy on any issue before the Senate \_\_\_\_\_  
Committee held on \_\_\_\_\_, 2005.

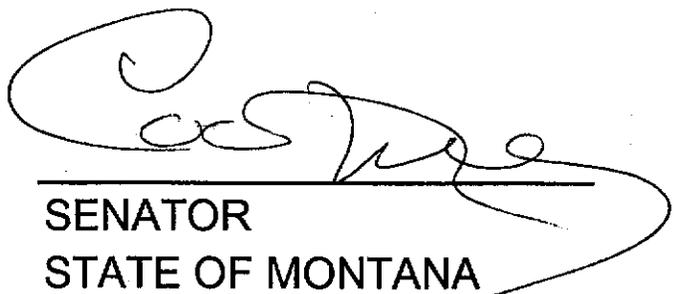
  
\_\_\_\_\_  
SENATOR  
STATE OF MONTANA

**PROXY VOTE**

I, the undersigned, hereby authorize Senator ELLINGSM to

vote my proxy on any issue before the Senate STATE ADMIN

Committee held on 4/1, 2005.

  
\_\_\_\_\_  
SENATOR  
STATE OF MONTANA

