

HOUSE BILL NO. 248

INTRODUCED BY K. PETERSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ELECTOR TO DECLARE POLITICAL PARTY
5 AFFILIATION OR THAT THE ELECTOR IS UNAFFILIATED WHEN REGISTERING TO VOTE; SPECIFYING
6 HOW AND WHEN A REGISTERED ELECTOR MAY CHANGE PARTY AFFILIATION STATUS; PROHIBITING
7 AN UNAFFILIATED ELECTOR FROM VOTING A PARTY BALLOT IN A PRIMARY ELECTION; CHANGING THE
8 TERM "INDEPENDENT" TO "UNAFFILIATED" WHEN REFERRING TO POLITICAL PARTY AFFILIATION
9 STATUS; AND AMENDING SECTIONS 5-2-402, 5-2-403, 5-2-404, 5-2-406, 7-4-2106, 7-4-2206, 13-1-303,
10 13-2-110, 13-2-115, 13-2-116, 13-2-122, 13-2-123, 13-2-207, 13-2-304, 13-10-209, 13-10-301, 13-10-305,
11 13-10-311, 13-10-501, 13-10-504, 13-10-507, 13-10-602, 13-12-202, 13-13-214, 13-13-241, 13-15-205,
12 13-17-103, 13-21-205, AND 13-25-205, MCA."

13

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

15

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

17 **"5-2-402. Appointment by board of county commissioners -- county central committee role --**
18 **timeframes.** (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy
19 occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or,
20 in the event of a multicounty district, the boards of county commissioners of the counties comprising the district
21 sitting as one appointing board.

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

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

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

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

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

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

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

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

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

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

19 (a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall
20 notify the board of county commissioners and the county central committee of the county where the vacating
21 legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the
22 corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is ~~an~~
23 independent unaffiliated with any political party or belongs to a party for which there is no county central
24 committee, the notification of county commissioners suffices.

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

29 (c) The appointing board shall make and confirm an appointment and notify the secretary of state within
30 15 days:

- 1 (i) after receiving the list of prospective appointees from the county central committee or committees;
2 (ii) after 45 days have expired after the notification of vacancy if the county central committee or
3 committees have not provided a list of prospective appointees; or
4 (iii) after notification of a vacancy if the legislator vacating the seat is ~~an independent~~ unaffiliated with any
5 political party.

6 (4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within
7 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in
8 subsection (3)(c) must take place in 5 days.

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

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

13

14 **Section 2.** Section 5-2-403, MCA, is amended to read:

15 **"5-2-403. Appointee to be of same political party.** (1) Whenever an appointee's predecessor served
16 as a member of a political party, the appointee named under 5-2-402 must be a member of the same political
17 party and must be selected from a list of three individuals provided:

18 (a) by the county central committee in a district within a single county; or

19 (b) by the county central committees, acting together, in a multicounty district, as described in 5-2-402.

20 (2) Whenever the appointing board is unable to elect an appointee from the submitted list, the appointing
21 board shall request a second list of three names from the county central committee or committees. The second
22 list may not contain any of the names submitted on the first list. The appointing board shall then select an
23 appointee from the individuals named on both lists.

24 (3) The provisions of this section do not apply if the predecessor served ~~as an independent~~ while being
25 unaffiliated with any political party."

26

27 **Section 3.** Section 5-2-404, MCA, is amended to read:

28 **"5-2-404. Procedure upon failure of one candidate to receive majority vote.** In the event that a
29 decision cannot be made by the appointing board because of failure of any candidate to receive a majority of the
30 votes, the final decision may be made by lot from the first and second lists of candidates as provided by 5-2-403

1 or from a list of three individuals if the predecessor served ~~as an independent~~ while being unaffiliated with any
 2 political party, in accordance with rules of selection adopted by the appointing board."

3

4 **Section 4.** Section 5-2-406, MCA, is amended to read:

5 **"5-2-406. Elections to fill vacancies in senate.** (1) Whenever a vacancy occurs 85 days or more before
 6 the general election held during the second year of the term, an individual may be appointed, pursuant to 5-2-402,
 7 if the legislature is called into special session. However, the appointment may run only until a person is elected
 8 to complete the term at the upcoming general election and sworn into office. The election procedure to be used
 9 to elect the successor is as follows:

10 (a) Whenever the vacancy occurs 75 days or more prior to the primary election during the second year,
 11 the same procedure as is used for senators who will be elected to full 4-year terms at that general election must
 12 be utilized.

13 (b) Whenever the vacancy occurs on or after the 75th day prior to the primary election, any political party
 14 desiring to enter a candidate in the general election shall select a candidate as provided in 13-10-327 and
 15 13-38-204. A political party shall notify the secretary of state of the party nominee. A person desiring to be a
 16 candidate ~~as an independent~~ who is unaffiliated with any political party shall follow the procedures provided in
 17 13-10-501 and 13-10-502. The petition for an ~~independent~~ unaffiliated candidate must be filed with the secretary
 18 of state on or before the 85th day prior to the general election.

19 (2) Whenever a vacancy occurs on or after the 85th day prior to the general election held during the
 20 second year of the term, the person appointed by the board under 5-2-402 shall serve until the end of the term."

21

22 **Section 5.** Section 7-4-2106, MCA, is amended to read:

23 **"7-4-2106. Vacancy on board of county commissioners.** (1) For the purposes of this part, "vacancy"
 24 has the same meaning as prescribed in 2-16-501.

25 (2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or
 26 otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until the
 27 next general election unless otherwise provided in subsection (3) or (4). The procedure to be used to fill the
 28 vacancy is as follows:

29 (a) If the former incumbent represented a party eligible for a primary election under 13-10-601, the
 30 county central committee of that party shall submit to the remaining commissioners three names of people who

1 have lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining
 2 commissioners shall appoint one of these three to fill the vacancy. Whenever the remaining commissioners are
 3 unable to elect an appointee from the submitted list, they shall request a second list of three names from the
 4 county central committee. The second list may not contain any of the names submitted on the first list. The
 5 remaining commissioners shall then select an appointee from the individuals named on both lists.

6 (b) If the former incumbent was ~~independent~~ unaffiliated with any political party or was originally
 7 nominated by a party that does not meet the requirements of 13-10-601 or if the vacancy occurs from a failure
 8 to elect, the remaining commissioners shall invite applications for the vacancy in a notice published as provided
 9 in 13-1-108 and shall accept an application from any person who has lived in the unrepresented district for at
 10 least 2 years preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these
 11 applicants to fill the vacancy.

12 (3) Whenever a vacancy occurs 75 days or more before the general election held during the second or
 13 fourth year of the term, an individual must be elected to complete the term at that general election. The election
 14 procedure to be used to elect the successor is as follows:

15 (a) Whenever the vacancy occurs 75 days or more before the primary election during the second or
 16 fourth year of the term, the same procedure must be used as is used to elect county commissioners to full 6-year
 17 terms.

18 (b) Whenever the vacancy occurs after the 75th day preceding the primary election, any political party
 19 desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political
 20 party shall notify the clerk and recorder of the party nominee. A person desiring to be a candidate ~~as an~~
 21 ~~independent~~ who is unaffiliated with any political party shall follow the procedures provided in 13-10-501 and
 22 13-10-502. The petition for an ~~independent~~ unaffiliated candidate must be filed with the clerk and recorder on or
 23 before the 75th day prior to the general election. A candidate for a nonpartisan office shall file as provided in Title
 24 13, chapter 14.

25 (4) Whenever a vacancy occurs after the 75th day preceding the general election held during the fourth
 26 year of the term, the person appointed by the remaining county commissioners under subsection (2) shall serve
 27 until the end of the term.

28 (5) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the county
 29 compensation board provided for in 7-4-2503 shall, subject to subsection (5)(c) of this section, appoint enough
 30 commissioners to allow for a quorum to be established. The vacancies must be filled in the order in which the

1 commissioners' terms would have expired.

2 (b) If vacancies occur at different times but, because appointments have not yet been made, a quorum
3 cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint enough
4 commissioners to allow for a quorum to be established. The county compensation board shall appoint each
5 commissioner in the order that the vacancy occurred.

6 (c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in
7 7-4-2104(2) and must be from the same district as the commissioner being replaced.

8 (ii) If a commissioner being replaced represented a party eligible for a primary election under 13-10-601,
9 the county central committee of that party shall, within 30 days of the occurrence of the vacancy, submit to the
10 county compensation board three names of people who have lived in the unrepresented district for at least 2
11 years prior to the occurrence of the vacancy. The county compensation board shall appoint each commissioner
12 from the list of names provided by the county central committee.

13 (d) Once a quorum can be established, the county commissioners forming the quorum shall appoint the
14 remaining commissioners as provided in this section.

15 (e) If a county compensation board does not exist, appointments under this subsection (5) must be made
16 by a district judge having jurisdiction in the county."

17

18 **Section 6.** Section 7-4-2206, MCA, is amended to read:

19 **"7-4-2206. Vacancies.** (1) For the purposes of this part, "vacancy" has the ~~same~~ meaning as prescribed
20 provided in 2-16-501.

21 (2) Vacancies in all county offices, except that of county commissioner, must be filled by appointment
22 by the board of county commissioners. Except as provided in subsections (3) through (5), the appointee holds
23 the office, if elective, until the person elected at the next general election is certified pursuant to 13-15-406. If the
24 office is not elective, the appointee serves at the pleasure of the commissioners.

25 (3) Whenever a vacancy occurs 75 days or more before the general election held during the second year
26 of the term, an individual must be elected to complete the term at that general election. The election procedure
27 to be used to elect the successor is as follows:

28 (a) Whenever the vacancy occurs 75 days or more before the primary election during the second year
29 of the term, the same procedure must be used as is used to elect a person to that office for a full 4-year term.

30 (b) Whenever the vacancy occurs after the 75th day before the primary election, any political party

1 desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political
 2 party shall notify the clerk and recorder of the party nominee. A person desiring to be a candidate ~~as an~~
 3 ~~independent~~ who is unaffiliated with any political party shall follow the procedures provided in 13-10-501 and
 4 13-10-502. The petition for an ~~independent~~ unaffiliated candidate must be filed with the clerk and recorder on or
 5 before the 75th day before the general election. A candidate for a nonpartisan office shall file as provided in Title
 6 13, chapter 14.

7 (4) Whenever a vacancy occurs after the 75th day before the general election held during the second
 8 year of the term, the person appointed by the commissioners under subsection (2) shall serve until the end of the
 9 term.

10 (5) Vacancies occurring in the office of justice of the peace must be filled as provided in Title 3, chapter
 11 10, part 2."

12

13 **Section 7.** Section 13-1-303, MCA, is amended to read:

14 **"13-1-303. Disposition of ballots and other election materials.** (1) The voted ballots, detached stubs,
 15 ~~unvoted ballots~~, and unused ballots from an election must be kept in the unopened packages received from the
 16 election judges for a period of 12 months. The packages may be opened only when an order for opening is given
 17 by the proper official for a recount procedure. After 12 months, if there is no contest begun, recount pending, or
 18 appeal of a decision relating to a contest or recount, an election administrator may dispose of the ballots as
 19 provided in subsection (2).

20 (2) Each election administrator shall prepare a plan for retention and destruction of election records in
 21 the county according to the retention schedules established by the local government records committee provided
 22 for in 2-6-402."

23

24 **Section 8.** Section 13-2-110, MCA, is amended to read:

25 **"13-2-110. Application for voter registration -- sufficiency and verification of information --**
 26 **identifiers assigned for voting purposes.** (1) An individual may apply for voter registration in person or by mail
 27 by completing and signing an application for voter registration and providing the application to the election
 28 administrator in the county in which the elector resides.

29 (2) An individual applying by mail shall send the application to the election administrator, postage paid,
 30 no later than 15 days after the date it is signed.

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

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

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

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

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

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

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

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

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

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

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

18 (6) An applicant shall declare on the registration form the applicant's party affiliation or that the applicant
19 is unaffiliated with any political party. If the applicant does not declare a party affiliation or that the applicant is
20 unaffiliated, the election administrator shall designate the elector as unaffiliated.

21 ~~(6)(7)~~ (a) If information provided on an application for voter registration is sufficient to be accepted and
22 processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the
23 elector as a legally registered elector.

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

28 ~~(7)(8)~~ Each applicant for voter registration must be notified of the elector's registration status pursuant
29 to rules adopted under 13-2-109.

30 ~~(8)(9)~~ The secretary of state shall assign to each elector whose application was accepted a unique

1 identification number for voting purposes and shall establish a statewide uniform method to allow the secretary
2 of state and local election officials to distinguish legally registered electors from provisionally registered electors.

3 ~~(9)~~(10) The provisions of this section may not be interpreted to conflict with voter registration
4 accomplished under 13-2-221, 13-21-201, 13-21-203, and 61-5-107 and as provided for in federal law."

5

6 **Section 9.** Section 13-2-115, MCA, is amended to read:

7 **"13-2-115. Certification of statewide voter registration list -- local lists to be prepared.** (1)

8 Immediately after regular registration is closed under 13-2-301, the secretary of state shall certify the official
9 statewide voter registration list.

10 (2) Each election administrator shall have printed from the certified statewide voter registration database
11 lists of all registered electors in each precinct in the county. Except as provided in subsections (5) and (6), ~~names~~
12 the name of electors each elector must be listed alphabetically, with ~~their~~ the elector's party affiliation or
13 unaffiliated status and the elector's residence address or ~~with~~ a mailing address if located where street numbers
14 are not used.

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

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

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

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

25 (i) proves to the election administrator, as provided in subsection (6)(b), that the individual, or a minor
26 in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial
27 interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

28 (ii) proves to the election administrator, as provided in subsection (6)(c), that a temporary restraining
29 order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual
30 or minor.

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

4 (c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon exhibition to
5 the election administrator of the temporary restraining order or injunction."
6

7 **Section 10.** Section 13-2-116, MCA, is amended to read:

8 **"13-2-116. Precinct register.** (1) Before each election, the election administrator shall prepare from the
9 certified statewide voter registration list a precinct register for each precinct in the county for use by the election
10 judges. The register must contain an alphabetical list of the ~~names~~ the name, with ~~addresses~~ party affiliation or
11 unaffiliated status and the address, of ~~the each~~ legally registered ~~electors and or~~ provisionally registered ~~electors~~
12 elector, a space for the signature of the elector, and other information as prescribed by the secretary of state.

13 (2) If some of the electors in a precinct are not eligible to receive all ballots at an election because of a
14 combination of the elections of more than one political subdivision, the election administrator shall distinguish the
15 names of those eligible for each ballot by whatever method will be clear and efficient.

16 (3) When several precincts have been combined at one polling place for an election, the election
17 administrator may combine the electors from all precincts into one register or may provide separate registers for
18 each precinct.

19 (4) Precinct registers need not be printed if the election will not be held."
20

21 **Section 11.** Section 13-2-122, MCA, is amended to read:

22 **"13-2-122. Charges for registers, elector lists, and mailing labels made available to public.** (1)
23 Except as provided in subsection (2), upon written request, the secretary of state or a local election administrator
24 shall furnish to any elector, for noncommercial use, a copy of the official precinct registers, a current list of legally
25 registered electors, or mailing labels for registered electors. Upon delivery, the secretary of state or the local
26 election administrator may collect a charge not to exceed the actual cost of the register, list, or mailing labels.

27 (2) For an elector whose address information is protected from general distribution under 13-2-115(5)
28 or (6), the secretary of state or a local election administrator may not include the elector's residential address on
29 any register, list, or mailing labels but may list only the elector's name and party affiliation or unaffiliated status."
30

1 **Section 12.** Section 13-2-123, MCA, is amended to read:

2 **"13-2-123. Election administrator to provide list of electors to secretary of state.** (1) The election
3 administrator in each county shall provide to the secretary of state the following information, when possible, for
4 each elector:

5 (a) name;

6 (b) mailing address;

7 (c) precinct number;

8 (d) residence address;

9 (e) telephone number;

10 (f) driver's license number or last four digits of the elector's social security number;

11 (g) date of birth;

12 (h) gender;

13 (i) legislative house district;

14 (j) date of registration;

15 (k) whether the elector's name is on the active or inactive list of electors; ~~and~~

16 (l) whether the elector is a legally registered elector or a provisionally registered elector; and

17 (m) the elector's party affiliation or unaffiliated status.

18 (2) The information must be provided in accordance with rules adopted under 13-2-108."

19

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

21 **"13-2-207. Confirmation of registration.** (1) The election administrator shall give or mail to each elector
22 a notice, confirming registration and party affiliation or unaffiliated status and giving the location of the elector's
23 polling place. A notice sent to an elector to whom the notice is not personally given must be sent by
24 nonforwardable, first-class mail, which must conform to postal regulations to ensure address corrections are
25 received. If the notice is returned undeliverable the application for voter registration may not be placed on the
26 register of electors kept by the election administrator.

27 (2) The election administrator shall investigate the reason for the return of any mailed notices and mail
28 a confirmation notice to the elector. The notice must conform to postal regulations to ensure return, not
29 forwarding, of undelivered notices."

30

1 **NEW SECTION. Section 14. Change of party affiliation information after registration -- deadline.**

2 (1) An elector registered before [the effective date of this act] must be considered to be unaffiliated with any
3 political party unless a change of party affiliation form is filed as provided in subsection (2).

4 (2) A registered elector may change party affiliation or unaffiliated status by completing and returning
5 to the election administrator a change of party affiliation form prescribed by the secretary of state.

6 (3) For the change to be effective for a pending primary election, the form must be received by the
7 election administrator by the close of regular registration as specified in 13-2-301.

8

9 **Section 15.** Section 13-2-304, MCA, is amended to read:

10 **"13-2-304. Late registration -- late changes -- nonapplicability for school elections.** (1) Except as
11 provided in ~~subsections (2) and (3)~~ [section 14] and this section, the following provisions apply:

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

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

17 (c) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter
18 information pursuant to this section may vote in the election only if the elector votes at the county election
19 administrator's office.

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

22 (3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a
23 school election held pursuant to Title 20."

24

25 **Section 16.** Section 13-10-209, MCA, is amended to read:

26 **"13-10-209. Arrangement and preparing of primary ballots.** (1) (a) Ballots for a primary election must
27 be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots,
28 except that there must be separate ballots for each political party entitled to participate. The name of the political
29 party must appear at the top of the separate ballot for that party and need not appear opposite each candidate's
30 name.

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

3 ~~—— (i) each section is clearly identified as separate;~~

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

5 ~~—— (iii) with respect to ballot issues, written approval is obtained as provided in 13-27-502~~ that are separate
 6 from the party ballots.

7 (2) An election administrator does not need to prepare a primary ballot for a political party if:

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

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

11 (3) If, pursuant to subsection (2), a primary ballot for a political party is not prepared, the secretary of
 12 state shall certify that a primary election is unnecessary for that party and shall instruct the election administrator
 13 to certify the names of the candidates for that party for the general election ballot only.

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

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

20 (6) ~~Each~~ Subject to 13-10-301(2), each elector must receive a set of ballots that includes the party,
 21 nonpartisan, and ballot issue choices."

22

23 **Section 17.** Section 13-10-301, MCA, is amended to read:

24 **"13-10-301. Casting of ballot.** (1) Unless otherwise provided by law, the conduct of the primary election,
 25 the voting procedure, the counting, tallying, and return of ballots and all election records and supplies, the
 26 canvass of votes, the certification and notification of nominees, recounts, procedures upon tie votes, and any
 27 other necessary election procedures must be at the same times and in the same manner as provided for in the
 28 laws for the general election.

29 (2) At a primary election, ~~the~~ an elector who has declared a party affiliation shall cast votes on ~~only one~~
 30 of the ballot for the party ballots; that the elector declared affiliation with on the elector's most current voter

1 registration form by preparing the ballot as provided in 13-13-117.

2 (3) After casting votes on any other ballots received other than the party ballots, the elector shall ensure
3 the proper disposition of the ballots in accordance with instructions provided pursuant to 13-13-112.

4 ~~(3)~~(4) The elector's ballot must be handled as prescribed in 13-13-117."
5

6 **Section 18.** Section 13-10-305, MCA, is amended to read:

7 "**13-10-305. ~~Independent Unaffiliated candidate forfeits place on ballot if party nomination~~**
8 **accepted.** An individual who has filed as an independent unaffiliated candidate forfeits ~~his~~ the individual's place
9 on the general election ballot as an independent unaffiliated candidate if ~~he~~ the individual accepts a write-in
10 nomination on a party ballot for an office as provided in 13-10-204."
11

12 **Section 19.** Section 13-10-311, MCA, is amended to read:

13 "**13-10-311. Election judges' duties when preparing for count.** (1) Except as otherwise provided in
14 this section, election judges at the primary election shall prepare for a count of votes in the manner prescribed
15 in 13-15-201.

16 (2) In preparing for a count, the election judges shall:

17 (a) separate the ballots for each political party and count each party's ballots separately;

18 (b) reconcile the total number of party ballots and the separate total number of other ballots used at the
19 election with the number of electors voting. Any discrepancies in the reconciliations must be handled as provided
20 in 13-15-201.

21 (c) list each party's candidates separately in the tally books; and

22 (d) bundle the voted ballots for each party separately for return to the election administrator. ~~The unvoted~~
23 ~~ballots must be bundled in accordance with rules established pursuant to 13-12-202-"~~
24

25 **Section 20.** Section 13-10-501, MCA, is amended to read:

26 "**13-10-501. Petition for nomination by independent unaffiliated candidates or political parties not**
27 **eligible to participate in primary election.** (1) Except as provided in 13-10-504, nominations for public office
28 by an independent unaffiliated candidate or a political party ~~which~~ that does not meet the requirements of
29 13-10-601 may be made by a petition for nomination.

30 (2) The petition must contain the same information and the oath of the candidate required for a

1 declaration for nomination.

2 (3) If a petition is filed by a political party, it must contain the party name and, in five words or less, the
3 principle ~~which such~~ that the body represents.

4 (4) The form of the petition ~~shall~~ must be prescribed by the secretary of state, and ~~he~~ the secretary of
5 state shall furnish sample copies to the election administrators and on request to any individual.

6 (5) Each sheet of a petition must contain signatures of electors residing in only one county."
7

8 **Section 21.** Section 13-10-504, MCA, is amended to read:

9 **"13-10-504. Independent Unaffiliated or minor party candidates for president or vice president.**

10 (1) An individual who desires to run for president or vice president as an ~~independent~~ unaffiliated candidate or
11 as a candidate of a party not qualified under 13-10-601 shall file a petition for nomination with the secretary of
12 state 76 days prior to the date of the general election.

13 (2) The petition and the affidavits of circulation required by 13-27-302 must first be submitted, at least
14 1 week before the deadline for filing, to the election administrator in the county where the signer resides for
15 verification and certification by the procedures provided in 13-27-303 through 13-27-306.

16 (3) The petition must have the signatures of electors equal to 5% or more of the total votes cast for the
17 successful candidate for governor at the last general election or 5,000 electors, whichever is less. The names
18 of the candidates for the required number of presidential electors allowable to Montana must be certified to the
19 secretary of state no later than 76 days before the general election.

20 (4) A qualified ~~independent~~ unaffiliated presidential candidate may amend the petition and designate or
21 choose a named vice presidential candidate until the filing date provided in 13-25-101."
22

23 **Section 22.** Section 13-10-507, MCA, is amended to read:

24 **"13-10-507. Independent Unaffiliated candidates -- association with political parties not allowed.**

25 (1) A person seeking office as an ~~independent~~ unaffiliated candidate may not be associated with a political party
26 for 1 year prior to the submission of ~~his~~ the person's nomination petition.

27 (2) For the purposes of subsection (1), "associated with a political party" means having run for office as
28 a partisan candidate or having held an office with a political party designation."
29

30 **Section 23.** Section 13-10-602, MCA, is amended to read:

1 **"13-10-602. Use of party name.** (1) Every political party and its regularly nominated candidates,
 2 members, and officers have the sole and exclusive right to the use of the party name. ~~No~~ A candidate for office
 3 may not use any word of the name of any other political party or organization other than that by which ~~he~~ the
 4 candidate is nominated.

5 (2) An ~~independent~~ unaffiliated or nonpartisan candidate ~~shall~~ may not use any word of the name of any
 6 existing political party or organization in ~~his candidacy~~ the candidate's campaign."

7

8 **Section 24.** Section 13-12-202, MCA, is amended to read:

9 **"13-12-202. Ballot form and uniformity.** (1) The secretary of state shall adopt statewide uniform rules
 10 that prescribe the ballot form for each type of ballot used in this state. The rules must conform to the provisions
 11 of this title unless the voting system used clearly requires otherwise. At a minimum, the rules must address:

- 12 (a) the manner in which each type of ballot may be corrected under 13-12-204;
 13 (b) what provisions must be made on the ballot for write-in candidates;
 14 (c) the size and content of stubs on paper ballots, except as provided in 13-19-106(1);
 15 ~~(d) how unvoted ballots must be handled;~~
 16 ~~(e)~~(d) how the number of individuals voting and the number of ballots cast must be recorded; and
 17 ~~(f)~~(e) the order and arrangement of voting system ballots.

18 (2) The names of all candidates to appear on the ballots must be in the same font size and style.

19 (3) Notwithstanding 13-19-106(1), when the stubs are detached, it must be impossible to distinguish any
 20 one of the ballots from another ballot for the same office or issue.

21 (4) The ballots must contain the name of each candidate whose nomination is certified under law for an
 22 office and no other names, except that the names of candidates for president and vice president of the United
 23 States must appear on the ballot as provided in 13-25-101(2)."

24

25 **Section 25.** Section 13-13-214, MCA, is amended to read:

26 **"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a) Except
 27 as provided in 13-13-213 and in subsection (1)(b) of this section, the election administrator shall, no sooner than
 28 authorized in 13-13-205, mail, postage prepaid, to each legally registered elector and provisionally registered
 29 elector from whom the election administrator has received a valid absentee ballot application under 13-13-211
 30 and 13-13-212 whatever official ballots are necessary.

- 1 (b) The election administrator may deliver a ballot in person to an individual other than the elector if:
- 2 (i) the elector has designated the individual, either by a signed letter or by making the designation on
- 3 the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;
- 4 (ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt of the
- 5 ballot;
- 6 (iii) the election administrator believes that the individual receiving the ballot is the designated person;
- 7 and
- 8 (iv) the designated person has not previously picked up ballots for four other electors.
- 9 (2) The election administrator shall enclose with the ballots:
- 10 (a) a form prescribed by the secretary of state that allows the elector to request absentee ballots for each
- 11 subsequent federal election only or for all subsequent elections, as provided for in 13-13-212(4);
- 12 (b) a secrecy envelope, free of any marks that would identify the voter; and
- 13 (c) an envelope for the return of the ballots. The envelope must be self-addressed by the election
- 14 administrator and an affirmation in the form prescribed by the secretary of state must be printed on the back of
- 15 the envelope.
- 16 (3) The election administrator shall ensure that the ballots provided to an absentee elector are marked
- 17 as provided in 13-13-116 and remove the stubs from the ballots, attaching the stubs to the elector's absentee
- 18 ballot application.
- 19 (4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose ~~an~~
- 20 ~~extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way~~
- 21 ~~so that it can be identified as being used by any one elector~~ a party ballot only for the party that the elector
- 22 declared affiliation with on the elector's most current voter registration form. If the elector is unaffiliated, the elector
- 23 may not receive a party ballot.
- 24 (5) Instructions for voting must be enclosed with the ballots. ~~Instructions for primary elections must~~
- 25 ~~include use of the envelope for unvoted ballots.~~ The instructions must include information concerning the type
- 26 or types of writing instruments that may be used to mark the absentee ballot. The instructions must include
- 27 information regarding use of the secrecy envelope and use of the return envelope. The election administrator
- 28 shall include a voter information pamphlet with the instructions if:
- 29 (a) a statewide ballot issue appears on the ballot mailed to the elector; and
- 30 (b) the elector requests a voter information pamphlet."

1
2 **Section 26.** Section 13-13-241, MCA, is amended to read:

3 **"13-13-241. Examination of absentee ballot return envelopes -- deposit of absentee and ~~unvoted~~**
4 **ballots.** (1) (a) After an absentee ballot is received, an election administrator shall compare the signature of the
5 elector on the absentee ballot request with the signature on the absentee ballot return envelope.

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

9 (c) (i) If the elector is provisionally registered and the signature on the return envelope matches the
10 signature on the absentee ballot application, the election administrator or an election judge shall open the outer
11 return envelope and determine whether the elector's voter identification information, if enclosed pursuant to
12 13-13-201, is sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

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

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

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

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

21 ~~(4)~~(3) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify
22 the absentee elector by mail or by the most expedient method available under rules adopted by the secretary of
23 state that the elector's identification information was insufficient and that the elector's ballot will be treated as a
24 provisional ballot until the elector provides sufficient information, pursuant to rules adopted by the secretary of
25 state. If the elector is notified by mail, the election administrator shall provide a self-addressed return envelope
26 along with a description of the information necessary for the absentee elector to reclassify the provisional ballot
27 as a regular ballot.

28 ~~(5)~~(4) If the signature on the absentee ballot return envelope does not match the signature on the
29 absentee ballot request form, the absentee ballot must be rejected. The election administrator, without opening
30 the absentee ballot return envelope, shall mark across it the reason for rejection. Unopened rejected absentee

1 ballot return envelopes must be handled in the same manner as provided for rejected ballots in 13-15-108(1).
 2 ~~(6)~~(5) After receiving an absentee ballot secrecy envelope, without opening the secrecy envelope, the
 3 election judges shall on election day place the secrecy envelope in the proper ballot box."

4

5 **Section 27.** Section 13-15-205, MCA, is amended to read:

6 **"13-15-205. Items to be delivered to election administrator by election judges -- disposition of**
 7 **other items.** (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely
 8 fastened:

9 (a) the precinct register;

10 (b) the list of individuals challenged;

11 (c) the pollbook;

12 (d) both of the tally sheets.

13 (2) The election judges shall enclose in a separate, securely sealed package or envelope marked
 14 "unused ballots", ~~securely sealed~~, all unused ballots with the numbered stubs attached.

15 (3) The election judges shall enclose in a separate package or envelope, securely sealed, all ballots
 16 voted, including those not counted or allowed, and detached stubs from all counted or rejected absentee ballots.
 17 This envelope shall must be endorsed on the outside "ballots voted". ~~At the primary election the unvoted party~~
 18 ~~ballots shall be enclosed in a separate package or envelope, securely sealed, and marked on the outside~~
 19 ~~"unvoted ballots"~~.

20 (4) Each election judge shall write ~~his~~ the election judge's name across all seals.

21 (5) The return form provided for in 13-15-101 shall must be returned with the items provided for in this
 22 section but may not be sealed in any of the packages.

23 (6) The envelopes or packages required by this section shall must be delivered to the election
 24 administrator by the chief election judge or another judge appointed by the chief judge in the manner ordered by
 25 the election administrator.

26 (7) The election administrator shall instruct the chief election judge in writing on the proper disposition
 27 of all other election materials and supplies."

28

29 **Section 28.** Section 13-17-103, MCA, is amended to read:

30 **"13-17-103. Required specifications for voting systems.** (1) A voting system may not be approved

1 under 13-17-101 unless the voting system:

2 (a) allows an elector to vote in secrecy;

3 (b) prevents an elector from voting for any candidate or on any ballot issue more than once;

4 (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;

5 (d) allows an elector to vote in a primary election only for the candidates of the party ~~selected by the~~
6 ~~elector in the primary election that the elector is affiliated with according to the elector's most current voter~~
7 registration form;

8 (e) allows an elector to vote a split ticket in a general election if the elector desires;

9 (f) allows each valid vote cast to be registered and recorded within the performance standards adopted
10 pursuant to subsection (2);

11 (g) may be protected from tampering for a fraudulent purpose;

12 (h) prevents an individual from seeing or knowing the number of votes registered for any candidate or
13 on any ballot issue during the progress of voting;

14 (i) allows write-in voting;

15 (j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and
16 technical assistance will be provided to election officials under the contract for purchase of the voting system;

17 (k) uses a paper ballot that allows votes to be manually counted; and

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

20 (2) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a
21 benchmark performance standard that must be met in tests by each voting system prior to approval under
22 13-17-101. The standard must be based on commonly accepted industry standards for readily available
23 technologies."

24

25 **Section 29.** Section 13-21-205, MCA, is amended to read:

26 **"13-21-205. Federal write-in absentee ballot.** (1) A United States elector may register, if not already
27 registered, and vote in any election by completing, signing, and returning a federal write-in absentee ballot and
28 meeting the requirements in 13-21-206.

29 (2) (a) A United States elector voting a federal write-in absentee ballot for a federal general election may
30 designate a candidate by writing in the name of the candidate or by writing in the name of the political party for

1 which the elector is voting. A written designation of the political party must be counted as a vote for the candidate
2 of that party.

3 (b) (i) Except as provided in subsection (2)(b)(ii), a United States elector may vote in any election for a
4 public office other than for a federal office by using the addendum provided in the federal write-in absentee ballot
5 and writing in the title of the office and the name of the candidate for whom the elector is voting.

6 (ii) If the elector is voting in a primary election, the elector shall identify the elector's political party
7 affiliation as provided for in the appropriate section of the ballot. A vote cast by writing in the name of a candidate
8 who is not affiliated with the elector's identified party according to the elector's most current voter registration form
9 is void and may not be counted.

10 (3) A vote may not be voided for reasons of misspellings, abbreviations, or other minor variations of the
11 candidate's name.

12 (4) If the elector receives the regular absentee ballot after the elector has voted and mailed a federal
13 write-in absentee ballot, the elector may vote and return the regular absentee ballot."
14

15 **Section 30.** Section 13-25-205, MCA, is amended to read:

16 **"13-25-205. Nominations for special election.** (1) When a special election is ordered to fill a vacancy
17 in the office of United States senator or United States representative, each political party shall choose a candidate
18 according to the rules of the party. Nominations by parties ~~shall~~ must be made no later than 75 days before the
19 date set for the election.

20 (2) Nominating petitions may be filed by ~~independent~~ unaffiliated candidates for the office up to ~~5:00~~ 5
21 p.m. of the 75th day before the election."
22

23 NEW SECTION. **Section 31. Codification instruction.** [Section 14] is intended to be codified as an
24 integral part of Title 13, chapter 2, part 2, and the provisions of Title 13, chapter 2, part 2, apply to [section 14].
25

- END -