



AN ACT CLARIFYING THAT THE DEATH OF A CANDIDATE CREATES AN ERROR OR OMISSION ON A PRINTED ABSENTEE BALLOT; REQUIRING THAT ABSENTEE BALLOTS CAST FOR A DECEASED CANDIDATE BE COUNTED FOR THE DECEASED CANDIDATE; AMENDING SECTIONS 13-13-204 AND 13-15-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 13-13-204, MCA, is amended to read:

"13-13-204. Authority to vote in person -- printing error or ballot destroyed -- failure to receive ballot -- effect of absentee elector's death. (1) (a) If an elector has voted by received but not voted an absentee ballot but and the absentee ballot contains printing errors or omissions, except that the name of a candidate who has died since the printing of the ballot and that appears on the ballot does not constitute an error or omission, the elector may receive a replacement or corrected ballot and vote in person in any manner at the elector's polling place at the election administrator's office.

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

(2) If an elector does not receive an absentee ballot or if the absentee ballot was destroyed, the elector may appear at the appropriate polling place on election day and vote in person after signing an affidavit, in the form prescribed by the secretary of state, swearing that the elector's ballot has not been received or was destroyed. The ballot must be handled as a provisional ballot under 13-15-107.

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

Section 2. Section 13-15-106, MCA, is amended to read:

"13-15-106. Counting of absentee ballot for deceased ~~joint candidate in general election~~

candidate. (1) ~~An~~ Except as provided in subsection (2) or (3), an absentee ballot voted in a general election, as provided in subsection (2) or (3), for a candidate for governor or lieutenant governor who dies after printing of the ballot but before the election must be counted as provided in subsection (2) or (3) for the deceased candidate.

(2) A vote for a deceased candidate for governor must be counted as a vote for the lieutenant governor candidate as governor and as a vote for the candidate chosen pursuant to 13-10-328 for lieutenant governor.

(3) A vote for a deceased candidate for lieutenant governor must be counted as a vote for the candidate chosen pursuant to 13-10-328 for lieutenant governor."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 0124, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2009.

Speaker of the House

Signed this _____ day
of _____, 2009.

SENATE BILL NO. 124

INTRODUCED BY C. SQUIRES

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

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