HOUSE BILL NO. 91

INTRODUCED BY P. INGRAHAM

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO ELECTIONS; REVISING THE TIMELINE TO FILL VACANCIES IN THE STATE SENATE; REVISING PROCEDURES TO GIVE NOTICE OF SPECIAL ELECTIONS; REVISING PROCESSING AND RETENTION PROCEDURES FOR CERTAIN VOTER RECORDS; REVISING PROCEDURES FOR CANDIDATE NOMINATION AND WITHDRAWAL; REVISING REQUIREMENTS TO APPOINT ELECTION JUDGES WHO REPRESENT DIFFERENT PARTIES IN CERTAIN SITUATIONS; REVISING PROCEDURES RELATING TO VOTING BY ABSENTEE BALLOT; REVISING ELECTION RECOUNT PROCEDURES; AMENDING SECTIONS 5-2-406, 13-1-106, 13-1-108, 13-1-303, 13-1-304, 13-2-108, 13-2-110, 13-2-112, 13-2-115, 13-2-122, 13-2-220, 13-2-222, 13-2-304, 13-2-511, 13-2-512, 13-3-105, 13-4-102, 13-4-207, 13-10-201, 13-10-203, 13-10-209, 13-10-211, 13-10-325, 13-10-404, 13-10-405, 13-12-202, 13-12-203, 13-12-207, 13-13-111, 13-13-112, 13-13-113, 13-13-114, 13-13-116, 13-13-118, 13-13-119, 13-13-201, 13-13-211, 13-13-212, 13-13-214, 13-13-222, 13-13-225, 13-13-241, 13-13-301, 13-13-602, 13-14-115, 13-14-117, 13-14-118, 13-14-212, 13-15-101, 13-15-107, 13-15-108, 13-15-112, 13-15-205, 13-15-206, 13-15-402, 13-15-404, 13-15-506, 13-16-201, 13-16-412, 13-16-419, 13-17-203, 13-17-503, 13-19-102, 13-19-106, 13-19-206, 13-19-301, 13-19-306, 13-19-307, 13-19-308, 13-19-309, 13-19-310, 13-19-311, 13-19-313, 13-25-101, 13-38-201, AND 13-38-202, MCA; REPEALING SECTIONS 13-2-123, 13-13-231, AND 13-21-211, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 5-2-406, MCA, is amended to read:

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

(a) Whenever the vacancy occurs ~~75~~ 85 days or more prior to the primary election during the second year, the same procedure as is used for senators who will be elected to full 4-year terms at that general election must be utilized.

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

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

Section 2. Section 13-1-106, MCA, is amended to read:

"13-1-106. Time of opening and closing of polls for all elections -- exceptions. (1) Except as provided in subsections (2) and (3), polling places must be open from 7 a.m. to 8 p.m.

(2) A polling place having fewer than 400 registered electors must be open from at least noon to 8 p.m. or until all registered electors in any precinct have voted, at which time that precinct in the polling place must be closed immediately.

(3) If an election held under 13-1-104(3) and a school election are conducted in the same polling place, the polling place must be opened and closed at the times set for the school election, as provided in 20-20-106."

Section 3. Section 13-1-108, MCA, is amended to read:

"13-1-108. Notice of special elections. Notice of any special election must be broadcast or published at least three times in the 4 weeks immediately preceding the ~~close of registration on radio or television as provided in 2-3-105 through 2-3-107 or~~ election in a newspaper of general circulation in the jurisdiction where the election will be held or may be broadcast on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential electors. The provisions of this section are fulfilled upon the third publication or broadcast of the notice."

Section 4. Section 13-1-303, MCA, is amended to read:

"13-1-303. Disposition of ballots and other election materials. (1) (a) Except for a federal election and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, and unused ballots from an election must be kept in the unopened packages received from the election judges for a period of 12 months. The packages may be opened only when an order for opening is given by the proper official either for a recount procedure or to process provisional ballots.

(b) The voted ballots, detached stubs, unvoted ballots, and unused ballots from a federal election must be retained in the unopened packages received from the election judges for a period of 22 months. The packages may be opened only as provided in subsection (1)(a) or for a postelection random-sample audit of vote-counting machines.

(c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time periods provided for in this subsection (1), there is no:

(i) contest begun;

(ii) recount pending; or

(iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

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

Section 5. Section 13-1-304, MCA, is amended to read:

"13-1-304. Duties of officials when election not held. If a scheduled election is not necessary or is canceled for any reason specified in law, the governing body or official making the determination shall immediately notify the election administrator in writing. If the election is not necessary because of the number of candidates filed, the election administrator shall make the determination and notify the proper governing body."

Section 6. 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)~~(d) technical security of the statewide voter registration database;

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

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

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

Section 7. 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, postage paid, 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.

~~(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.~~

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

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

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

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

~~(5)~~(4) (a) If an applicant does not have a Montana driver's license or social security number, the applicant shall provide as an alternative form of identification:

(i) a current and valid photo identification, including but not limited to 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) The alternative form of identification must be:

(i) an original version presented to the election administrator if the applicant is applying in person; or

(ii) a copy of any of the required documents, which must be enclosed with the application, if the applicant is applying by mail.

~~(6)~~(5) (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)~~ (3) or ~~(5)~~ (4) or if the information provided was incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall register the applicant as a provisionally registered elector.

~~(7)~~(6) Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under 13-2-109.

~~(8)~~(7) 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)~~(8) 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."

Section 8. Section 13-2-112, MCA, is amended to read:

"13-2-112. Register of electors to be kept. Each election administrator shall keep an official register of electors in the ~~manner that the administrator considers most efficient~~ statewide voter registration database. The original signed registration form for each elector must be ~~filed alphabetically in a separate file for each precinct~~ scanned, and the scanned copy must be retained in the statewide voter registration database. The original paper copy must be kept according to the state records retention schedule for such records. ~~Additional files and records may be established for convenience.~~ The information recorded in the official register of electors and the design of the registration forms must be prescribed by the secretary of state in the statewide voter registration database."

Section 9. 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.~~ No later than 5 working days after the deadline prescribed in 13-2-301(3), election administrators shall enter all voter registration applications that were submitted within the deadline for regular registration into the statewide voter registration database.

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

~~(2)~~(3) 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)~~ (6) and ~~(6)~~ (7), names of electors must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used.

~~(3)~~(4) A copy of the list of registered electors in a precinct must be displayed at the precinct's polling place. Extra copies of the lists must be retained by the election administrator and furnished to an elector upon request.

~~(4)~~(5) Lists of registered electors need not be printed if the election will not be held.

~~(5)~~(6) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that, for security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be disclosed, the secretary of state or an election administrator may not include the address on any generally available list of registered electors but may list only the electors' names.

~~(6)~~(7) (a) Upon the request of an individual, the secretary of state or an election administrator may not include the individual's residential address on any generally available list of registered electors but may list only the elector's name if the individual:

(i) proves to the election administrator, as provided in subsection ~~(6)(b)~~ (7)(b), that the individual, or a minor in the custody of the individual, has been the victim of partner or family member assault, stalking, custodial interference, or other offense involving bodily harm or threat of bodily harm to the individual or minor; or

(ii) proves to the election administrator, as provided in subsection ~~(6)(c)~~ (7)(c), that a temporary restraining order or injunction has been issued by a judge or magistrate to restrain another person's access to the individual or minor.

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

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

Section 10. Section 13-2-122, MCA, is amended to read:

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

(2) For an elector whose address information is protected from general distribution under 13-2-115~~(5) or~~ (6) or (7), the secretary of state or a local election administrator may not include the elector's residential address on any register, list, ~~or~~ mailing labels, or available extracts and reports but may list only the elector's name."

Section 11. Section 13-2-220, MCA, is amended to read:

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

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

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

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

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

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

(iii) sending forwardable confirmation notices; or

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

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

~~(2)~~(3) Any notices returned as undeliverable to the election administrator or any notices to which the elector fails to respond after ~~using~~ the election administrator uses the procedures provided in subsection (1) must be followed within 30 days by an appropriate confirmation notice that is a forwardable, first-class, postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the final confirmation notice, the election administrator shall move the elector to the inactive list.

~~(3)~~(4) A procedure used by an election administrator pursuant to this section must be completed at least 90 days before a primary or general election for federal office.

~~(4)~~(5) An elector's registration may be reactivated pursuant to 13-2-222 or may be canceled pursuant to 13-2-402."

Section 12. Section 13-2-222, MCA, is amended to read:

"13-2-222. Reactivation of elector. (1) The name of an elector must be moved by an election administrator from the inactive list to the active list of a county if an elector meets the requirements for registration provided in this chapter and:

(a) appears at a polling place in order to vote, ~~votes~~ submits an application to vote by absentee ballot in a polling place election or mail ballot election, or votes in a mail ballot election conducted under Title 13,

chapter 19;

(b) notifies the county election administrator in writing of the elector's current residence, which must be in that county; or

(c) completes a reactivation form provided by the county election administrator that provides current address information in that county.

(2) After an elector has complied with subsection (1)(a), (1)(b), or (1)(c), the county election administrator shall place the elector's name on the active voting list for that county.

(3) An elector reactivated pursuant to subsection (1)(a) is a legally registered elector for purposes of the election in which the elector voted."

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

"13-2-304. Late registration -- late changes -- nonapplicability for school elections. (1) Except as provided in subsections (2) and (3), the following provisions apply:

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

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

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

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

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

Section 14. Section 13-2-511, MCA, is amended to read:

"13-2-511. Transferring registration or changing name. An elector shall notify the election

administrator in a written communication signed by the elector of a change in residence within the county or a change in name ~~by using a transfer form provided by the election administrator or by completing the changed information on a registration or mail registration form. The form must be signed and affirmed or verified as required on the form. If a registration or mail registration form is used, it must be clearly marked "for transfer of address" or "for change of name" in a space provided on the form for that purpose~~."

Section 15. Section 13-2-512, MCA, is amended to read:

"13-2-512. Right to vote when precinct or name changed -- change of status. (1) An elector who has changed residence to a different precinct within the same county and has failed to notify the election administrator of the change by a transfer or new registration form may vote ~~in the precinct~~ at the polling place or by absentee or mail ballot in the precinct where the elector is registered at the first election at which the elector offers to vote after the change or at a central location designated by the election administrator unless the elector's registration has been canceled as provided in 13-2-402.

(2) An elector who still resides in the same precinct where registered, whose name has changed, and who has failed to notify the election administrator of the change by a new registration form may vote under the elector's former name at the first election at which the elector offers to vote after the change unless the elector's registration has been canceled as provided in 13-2-402.

(3) The elector shall state the elector's correct residence address and name when offering to vote and shall complete a transfer form or new registration form to make the necessary correction before being allowed to ~~sign the precinct register and~~ vote in a polling place election or by absentee or mail ballot."

Section 16. Section 13-3-105, MCA, is amended to read:

"13-3-105. Designation of polling place. (1) The county governing body shall designate the polling place for each precinct no later than 30 days before a primary election. The same polling place must be used for both the primary and general election if at all possible. Changes may be made by the governing body in designated polling places up to 10 days before an election if a designated polling place is not available. Polling places may be located outside the boundaries of a precinct.

(2) Not more than 10 days or less than 2 days before an election, the election administrator shall publish in a newspaper of general circulation in the county a statement of the locations of the precinct polling places. The election administrator shall include in the published notice the accessibility designation for each polling place

according to the classification in 13-3-207. Notice may also be given as provided in 2-3-105 through 2-3-107.

(3) An election administrator may make changes in the location of a polling place if an emergency occurs 10 days or less before an election. Notice must be posted at both the old and new polling places, and other notice may be given by whatever means available.

(4) Any ~~publicly owned~~ building may be used as a polling place. The building must be furnished at no charge as long as no structural changes are required in order to use the building as a polling place.

(5) The exterior of the voting systems, or of the booths in which they are placed, and every part of the polling place must be in plain view of the election judges."

Section 17. Section 13-4-102, MCA, is amended to read:

"13-4-102. Manner of choosing election judges. (1) Subject to 13-4-107, election judges must be chosen from lists of qualified registered electors for each precinct in the county, submitted at least 45 days before the primary election in even-numbered years by the county central committees of the political parties eligible to nominate candidates in the primary.

(2) The list of each party may contain more names than the number of election judges to be appointed. The names of those not appointed as election judges must be given to the election administrator for use in making appointments to fill vacancies.

(3) Each board of election judges must include judges representing all parties that have submitted lists as provided in subsection (1). No more than the number of election judges needed to obtain a simple majority may be appointed from the list of one political party in each precinct. If any of the political parties entitled to do so fail to submit a list <u>meeting the requirements of this section</u>, the governing body shall, to the extent possible, appoint judges so that all parties eligible to participate in the primary are represented on each board.

(4) The election administrator shall make appointments to fill vacancies from the list provided for in subsection (2). If the list is insufficient or if one or more of the eligible political parties fails to submit a list <u>meeting the requirements of this section</u>, the election administrator may select enough people meeting the qualifications of 13-4-107 to fill election judge vacancies in all precincts.

(5) An elector chosen to potentially serve as an election judge must be notified of selection at least 30 days before the primary election in even-numbered years. Each elector who agrees to serve as an election judge shall attend a training class conducted under 13-4-203 and shall continue to serve as provided in 13-4-103."

Section 18. Section 13-4-207, MCA, is amended to read:

"13-4-207. Judges to remain at polls -- emergency provisions -- part-time service. (1) Election judges may not leave the premises on which the polling place is located during the hours they are assigned to work unless permission to leave is given by the chief election judge for that precinct. Permission may be granted only for illness or a family emergency.

(2) A chief election judge must obtain the permission of the election administrator to leave the polling place premises because of illness or an emergency. If the chief judge is excused, the election administrator shall appoint one of the other judges to act as chief election judge.

(3) The time of departure and reason for leaving shall be entered near the oath form subscribed by the election judge or on a form provided by the election administrator. The chief election judge shall sign the entry.

(4) The election administrator may appoint a judge to replace an excused judge <u>or one who fails to appear</u>.

(5) The election administrator may assign a judge or chief election judge to work less than a full polling day, but at least three judges, including a chief election judge, must be on duty during the time that the polls are open."

Section 19. Section 13-10-201, MCA, is amended to read:

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

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

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

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

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the

secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

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

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

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

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

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

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

(7) A declaration for nomination form may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state."

Section 20. Section 13-10-203, MCA, is amended to read:

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

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

(2) from a candidate for nomination, a ~~verified~~ statement that the candidate is unable to pay the filing fee

and a written petition for nomination as a candidate that meets the following requirements:

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

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

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

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

Section 21. Section 13-10-209, MCA, is amended to read:

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

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

(i) each section is clearly identified as separate;

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

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

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

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

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

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

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

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

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

Section 22. Section 13-10-211, MCA, is amended to read:

"13-10-211. Declaration of intent for write-in candidates. (1) Except as provided in subsection ~~(7)~~ (8), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available for absentee voting for the election and must contain:

(a) (i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

(d) the title of the office sought;

(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense.

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

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

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

(a) by facsimile transmission if a facsimile facility is available for receipt;

(b) in person; or

(c) by mail.

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

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

~~(7)~~(8) ~~The~~ Except as provided in 13-38-201(5), the requirements in subsection (1) do not apply if:

(a) an election is held;

(b) a person's name is written in on the ballot;

(c) the person is qualified for and seeks election to the office for which the person's name was written in; and

(d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

Section 23. Section 13-10-325, MCA, is amended to read:

"13-10-325. Withdrawal from nomination. (1) (a) A candidate for nomination or candidate for election to an office may withdraw from the election by sending a statement of withdrawal to the officer with whom the candidate's declaration, petition, or acceptance of nomination was filed. The statement must contain all information necessary to identify the candidate and the office sought ~~and the reason for withdrawal. The~~

~~statement must be sworn or affirmed before an officer empowered to administer oaths~~. Unless filed electronically with the secretary of state, the statement of withdrawal from nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(b) Except as provided in subsection (1)(c), a candidate may not withdraw later than 85 days before a general election or 75 days before a primary election.

(c) A candidate may not withdraw later than 85 days before a general election conducted pursuant to 13-1-104(1)(a) or a primary election conducted pursuant to 13-1-107(1).

(2) Filing fees paid by the candidate may not be refunded."

Section 24. Section 13-10-404, MCA, is amended to read:

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

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

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

Section 25. Section 13-10-405, MCA, is amended to read:

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

Section 26. Section 13-12-202, MCA, is amended to read:

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

(a) the manner in which each type of ballot may be corrected under 13-12-204;

(b) what provisions must be made on the ballot for write-in candidates;

(c) the size and content of stubs on paper ballots, except as provided in 13-19-106(1);

(d) how unvoted ballots must be handled;

(e) how the number of individuals voting and the number of ballots cast must be recorded; and

(f) the order and arrangement of voting system ballots.

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

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

(4) The ballots must contain the name of each candidate whose nomination is certified under law for an office and no other names, except that the names of candidates for president and vice president of the United States must appear on the ballot as provided in 13-25-101~~(2)~~(5)."

Section 27. Section 13-12-203, MCA, is amended to read:

"13-12-203. Appearance of candidate's name and party designation on ballot. (1) Subject to 13-12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates, in partisan elections, candidates' names must appear under the title of the office sought, with the name of the party in not more than three words appearing opposite or below the name.

(2) Subject to 13-12-202, in nonpartisan general elections, the candidates' names must appear under the title of the office sought, with no description or designation appearing with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must appear with the ~~words~~ word ~~"Nominated without party designation"~~ "Nonpartisan"."

Section 28. Section 13-12-207, MCA, is amended to read:

"13-12-207. Order of placement. (1) The order on the ballot for state and federal offices must be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces

separated from the balance of the party tickets by a ~~heavy black~~ line must be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each political party must be grouped together.

(b) United States senator;

(c) United States representative;

(d) governor and lieutenant governor;

(e) secretary of state;

(f) attorney general;

(g) state auditor;

(h) state superintendent of public instruction;

(i) public service commissioners;

(j) clerk of the supreme court;

(k) chief justice of the supreme court;

(l) justices of the supreme court;

(m) district court judges;

(n) state senators;

(o) members of the Montana house of representatives.

(2) The following order of placement must be observed for county offices:

(a) clerk of the district court;

(b) county commissioner;

(c) county clerk and recorder;

(d) sheriff;

(e) coroner;

(f) county attorney;

(g) county superintendent of schools;

(h) county auditor;

(i) public administrator;

(j) county assessor;

(k) county treasurer;

(l) surveyor;

(m) justice of the peace.

(3) The secretary of state shall designate the order for placement on the ballot of any offices not on the above lists, except that the election administrator shall designate the order of placement for municipal, charter, or consolidated local government offices and district offices when the district is part of only one county.

(4) Constitutional amendments must be placed before statewide referendum and initiative measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow statewide measures in the order designated by the election administrator.

(5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled must be maintained.

(6) If there is a short-term and a long-term election for the same office, the long-term office must precede the short-term."

Section 29. Section 13-13-111, MCA, is amended to read:

"13-13-111. Provision and use of voting stations. (1) The election administrator shall provide a sufficient number of voting stations to allow voting to proceed with as little delay as possible.

(2) Voting stations must be arranged in a manner that will not permit any other individual to see how the elector votes or has voted.

(3) No more than one individual may occupy a voting station at one time, except when assistance is furnished to an elector as provided by law.

(4) An individual may not occupy a voting station longer than is reasonably necessary to prepare the elector's ballot, after which the election judges may ~~eject~~ effect the removal of the elector from the station."

Section 30. Section 13-13-112, MCA, is amended to read:

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

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

(a) how to obtain ballots for voting;

(b) how to prepare ballots, including how to:

(i) cast a valid vote, including a valid vote for a write-in candidate;

(ii) correct a mistake; and

(iii) ensure the proper disposition of the ballot after the elector is finished voting;

(c) how to obtain a new ballot in place of one spoiled by accident;

(d) how to vote provisionally pursuant to 13-13-601;

(e) the election date and the hours the polls are open; and

(f) instructions for first-time voters who registered by mail.

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

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

Section 31. Section 13-13-113, MCA, is amended to read:

"13-13-113. Warning notice to be posted. (1) Warning notices shall be posted in conspicuous places in the polling place. Each notice shall be headed "WARNING" in large letters and shall state:

"The sections of law printed below list specific conduct or actions which may cause an elector to be subject to criminal prosecution. This is not intended to be a complete printing of all laws pertaining to election violations."

Below this statement shall be printed the following sections: 13-35-201; 13-35-202; 13-35-206; 13-35-211; 13-35-214; 13-35-217; and 13-35-218.

(2) The notice may also contain any other information prescribed by the secretary of state."

Section 32. Section 13-13-114, MCA, is amended to read:

"13-13-114. Voter identification and marking precinct register book before elector votes -- provisional voting. (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present 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, the elector shall present 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) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and

must be provided with a regular ballot to vote.

(c) If the information provided in subsection (1)(a) differs from information in the precinct register but an election judge determines that the information provided is sufficient to verify the voter's identity and eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register, complete a transfer form or new registration form to correct the elector's voter registration information, and vote.

(d) An election judge shall write "transfer form" or "registration form" beside the name of any elector submitting a form.

(2) If the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

(3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601."

Section 33. Section 13-13-116, MCA, is amended to read:

"13-13-116. Paper ballots to be marked -- one ballot to elector. (1) Before delivering a paper ballot to an elector, the election judges shall ensure that the ballot is ~~marked~~ individually stamped with the words "official ballot" without part of the mark appearing on the stub, if any. ~~The election judges shall also ensure that the ballot is marked with the name of the county, the number of the precinct, and any other information the election administrator believes necessary to distinguish the ballots from those used in any other election.~~

(2) Each elector must receive from the election judges one of each type of ballot ~~being used at the election~~ for which the elector is eligible."

Section 34. Section 13-13-118, MCA, is amended to read:

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

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

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

Section 35. Section 13-13-119, MCA, is amended to read:

"13-13-119. Aid to disabled elector. (1) When a disabled elector enters a polling place, an election judge shall ask the elector if the elector wants assistance.

(2) An election judge or an individual chosen by the disabled elector as specified in subsection (5) may aid an elector who, because of physical disability or inability to read or write, needs assistance in marking the elector's ballot.

(3) The election judges shall require a declaration of disability by the elector. The declaration must be made under oath, which must be administered by an election judge.

(4) The elector may be assisted by two judges who represent different parties. <u>If election judges who represent different political parties are not available, the chief election judge shall appoint two election judges to assist the elector.</u> The judges shall certify on the precinct register opposite the disabled elector's name that the ballot was marked with their assistance. The judges may not reveal information regarding the ballot.

(5) Instead of assistance as provided in subsection (4), the elector may request the assistance of any individual the elector designates to the judges to aid the elector in the marking of the elector's ballot. An individual designated to assist the elector shall sign the individual's name on the precinct register beside the name of the elector assisted. The individual chosen may not be the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union.

(6) No elector other than the elector who requires assistance may divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote or may ask or receive the assistance of any individual within the polling place in the preparation of the elector's ballot."

Section 36. Section 13-13-201, MCA, is amended to read:

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

(2) The elector may vote absentee by:

(a) marking the ballot in the manner specified;

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

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

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

(e) returning the return envelope with all appropriate enclosures by regular mail, postage paid, or by delivering it to the election administrator or, pursuant to 13-13-229, to the special absentee election board.

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

Section 37. Section 13-13-211, MCA, is amended to read:

"13-13-211. Time period for application. (1) Except as provided in 13-13-222, 13-21-210, and subsection (2) of this section, an application for an absentee ballot must be made ~~during a period beginning 75 days before the day of election and ending at~~ before noon on the day before the election.

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

Section 38. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot -- special provisions. (1) (a) Except as provided in subsection (1)(b), an elector may apply for an absentee ballot by using 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.

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

(2) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the special absentee election board 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.

(4) (a) An elector may at any time request to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote or only for each subsequent federal election in which the elector is eligible to vote for as long as the elector remains qualified to vote and resides at the address provided in the initial application.

(b) The election administrator shall mail a forwardable address confirmation form in January of each year to each elector who has requested an absentee ballot for subsequent elections. The address confirmation form is for elections to be held between February 1 following the mailing through January of the succeeding year. The elector shall sign the form, indicate the address to which the absentee ballot should be sent, and return the form to the election administrator. If the form is not completed and returned, the election administrator shall remove the elector from the register of electors who have requested an absentee ballot for each subsequent election.

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

Section 39. Section 13-13-214, MCA, is amended to read:

"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector. (1) (a) Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary.

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

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

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

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

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

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

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

~~(a) a form prescribed by the secretary of state that allows the elector to request absentee ballots for each subsequent federal election only or for all subsequent elections, as provided for in 13-13-212(4);~~

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

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

(4) If the ballots sent to the elector are for a primary election, the election administrator shall enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked in any way

so that it can be identified as being used by any one elector.

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

(a) a statewide ballot issue appears on the ballot mailed to the elector; and

(b) the elector requests a voter information pamphlet."

Section 40. Section 13-13-222, MCA, is amended to read:

"13-13-222. Marking ballot before election day. (1) As soon as the official ballots are available pursuant to 13-13-205, the election administrator shall permit an elector to apply for, receive, and mark an absentee ballot before election day by appearing in person at the office of the election administrator and marking the ballot in a voting station area designated by the election administrator.

(2) The provisions of this chapter apply to voting under this section.

~~(3) If the ballot is marked before the election administrator, the election administrator shall deal with it as provided in 13-13-231.~~

~~(4)~~(3) The ballot is considered voted at the time it is received ~~by the election administrator~~ at the election administrator's office."

Section 41. Section 13-13-225, MCA, is amended to read:

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

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

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

Section 42. 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) After an absentee ballot is received, an election administrator shall compare the signature of the elector or elector's agent on the absentee ballot request <u>or on the elector's voter registration card</u> with the signature on the absentee ballot return envelope.

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

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

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

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

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

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

(4) 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 or eligibility 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.

(5) If the signature on the absentee ballot return envelope does not match the signature on the absentee ballot request form or on the elector's voter registration card, the election administrator shall notify the elector, either by first-class mail or the most expedient method available under rules adopted by the secretary of state, and inform the elector that the elector may verify the signature, after proof of identification, by mail or in person at the election administrator's office prior to 8 p.m. on election day.

(6) The elector may verify the signature by affirming that the signature is in fact the elector's or by completing a new registration card containing the elector's current signature or by filing a new agent designation form.

(7) If an elector notified pursuant to subsection (5) fails to verify the signature before 8 p.m. on election day, the ballot must be handled as a provisional ballot under 13-15-107.

(8) 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.

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

Section 43. Section 13-13-301, MCA, is amended to read:

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

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

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

(b) has voted before in that election;

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

(d) is not registered as required by law;

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 44. Section 13-13-602, MCA, is amended to read:

"13-13-602. Fail-safe and provisional voting by mail. (1) To ensure the election administrator has information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer return envelope, together with the voted ballot in the secrecy envelope, a copy of a current and valid photo identification with the elector's name or a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address or other information necessary to determine the elector's eligibility to vote.

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

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

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

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

Section 45. Section 13-14-115, MCA, is amended to read:

"13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on conducting primary. (1) The election administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". The ballots must be arranged and prepared as provided in 13-10-209 and be without political designation.

(2) (a) The election administrator of a political subdivision may determine that a local nonpartisan portion of a primary election need not be held if:

(i) the number of candidates for an office exceeds three times the number to be elected to that office in no more than one-half of the offices on the ballot; and

(ii) the number of candidates in excess of three times the number to be elected is not more than one for any office on the ballot.

(b) If the election administrator determines that a primary election need not be held pursuant to subsection (2)(a), the administrator shall give notice to the governing body that a primary election will not be held.

(3) The governing body may require that a primary election be held if it passes a resolution not more than 10 days after the close of filing by candidates for election stating that a primary election must be held."

Section 46. Section 13-14-117, MCA, is amended to read:

"13-14-117. Placing names on ballots for general election. (1) Except as provided in subsection (2), candidates for nomination equal to twice the number to be elected at the general election who receive the highest number of votes cast at the primary are the nominees for the office. If the number of candidates is not more than twice the number to be elected, then all candidates are nominees for the office.

(2) If, pursuant to 13-14-115(2), a local nonpartisan portion of a primary election is not held, then all candidates who filed for an office are nominees for the office."

Section 47. Section 13-14-118, MCA, is amended to read:

"13-14-118. Vacancies among nominees after nomination and before general election. (1) If after the primary election and before the 85th day before the general election a candidate is not able to run for the office for any reason, the vacancy must be filled by the candidate next in rank in number of votes received in the primary election.

(2) If a vacancy for a nonpartisan nomination cannot be filled as provided in subsection (1) and the vacancy occurs no later than ~~75~~ 85 days before the general election, a 10-day period for accepting declarations for nomination or statements of candidacy and nominating petitions for the office must be declared by:

(a) the governor for national, state, judicial district, legislative, or any multicounty district office;

(b) the governing body of the appropriate political subdivision for all other offices.

(3) The names of the candidates who filed as provided in subsection (2) must be certified and must appear on the general election ballot in the same manner as candidates nominated in the primary.

(4) If the vacancy occurs later than ~~75~~ 85 days before the general election and a qualified individual is not elected to the office at the general election, the office is vacant and must be filled as provided by law."

Section 48. Section 13-14-212, MCA, is amended to read:

"13-14-212. Form of ballot on retention of certain incumbent judicial officers. (1) If the incumbent is the only candidate for the office of chief justice, supreme court justice, district court judge, or justice of the peace, the election administrator may not include a nonpartisan designation or write-in space for the office on the general election ballot. The name of the incumbent must be placed on the official ballot for the general election as follows:

Shall (insert title of officer) (insert name of the incumbent officer) of the (insert title of the court) of the state of Montana be retained in office for another term?

(2) Following the question, provision must be made, subject to rules adopted pursuant to 13-12-202, for a voter to indicate a "yes" or "no" vote."

Section 49. Section 13-15-101, MCA, is amended to read:

"13-15-101. Votes to be publicly counted -- return forms. (1) Any official vote count must be public and continue without adjournment until completed and the result is publicly declared.

(2) Immediately after all the ballots are counted by precinct, the election judges shall copy the total votes

cast for each candidate and for and against each proposition on the return forms furnished by the election administrator.

(3) The election judges shall immediately ~~post~~ display one of the return forms at the place of counting and return a copy to the election administrator. Both forms must be signed by all the election judges completing the count."

Section 50. Section 13-15-107, MCA, is amended to read:

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

(2) (a) If a legally registered elector 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 signature of the elector or the elector's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the signature on the elector's voter registration card or the agent's designation form.

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

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

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

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

(5) A provisional ballot must be removed from its provisional envelope, grouped with other ballots in a

manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the elector's voter information is:

(a) verified before 5 p.m. on the day after the election; or

(b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

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

Section 51. Section 13-15-108, MCA, is amended to read:

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

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

Section 52. Section 13-15-112, MCA, is amended to read:

"13-15-112. Appointment of counting boards. To count votes in any election under this title, when election judges are appointed under 13-4-101, each county's governing body shall designate one or more groups of three of the election judges to act as ~~a~~ counting ~~board~~ boards. The governing body may also designate one or more groups of three of the election judges to act as ~~an~~ absentee ballot counting ~~board~~ boards under 13-15-104."

Section 53. Section 13-15-205, MCA, is amended to read:

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

fastened:

(a) the precinct register;

(b) the list of individuals challenged;

(c) the pollbook;

(d) both of the tally sheets.

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

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

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

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

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

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

Section 54. Section 13-15-206, MCA, is amended to read:

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

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

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

be set aside and votes on the ballot must be handled as provided in subsection (4).

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

(ii) If the two tallies match, the judges shall record in the pollbook:

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

(B) the offices for which individuals received votes;

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

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

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

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

(i) if a vote is recognized and counted by the system, it is a valid vote;

(ii) if a vote is not recognized and counted by the system, it is not a valid vote;

(iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).

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

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

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

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

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

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

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

processed by the voting system.

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

(a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or

(ii) pursuant to 13-10-211~~(7)~~(8), a declaration of nomination was not filed and the write-in vote identifies an individual who is qualified for the office; and

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

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

(7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that all votes are treated equally among jurisdictions using similar ballot types and voting systems.

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

(a) the security of the counting process against fraud;

(b) the place and time and public notice of each count or recount;

(c) public observance of each count or recount, including observance by representatives authorized under 13-16-411;

(d) the recording of objections to determinations on the validity of an individual vote or to the entire counting process; and

(e) the keeping of a public record of count or recount proceedings.

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

Section 55. Section 13-15-402, MCA, is amended to read:

"13-15-402. Canvass of votes by board -- procedures if all returns not received by time of canvass. (1) If all returns are in at the time of the meeting, the board of county canvassers shall immediately canvass the returns.

(2) If all returns are not received, the board shall postpone the canvass from day to day until all returns are received.

~~(3) If the returns from an election precinct have not been received by the election administrator within~~

~~3 to 7 days after an election, the election administrator shall immediately advise the chief election judge.~~

~~(4)~~(3) If it appears to the board that the polls were not open in a precinct, the board shall certify this to the election administrator. The election administrator shall enter the certification in the minutes and in the record required by 13-15-404."

Section 56. Section 13-15-404, MCA, is amended to read:

"13-15-404. Information to be entered on record. (1) The secretary of the board shall prepare and file in the official records of the secretary's office a report of the canvass that lists:

(a) the total number of electors voting in each precinct, district, or portion of a district in the county and the total in the county;

(b) the name of each individual receiving votes and the office for which the votes were received;

(c) the number and title of each ballot issue;

(d) the votes by precinct, district, or portion of a district within the county for each individual and for and against each ballot issue;

(e) the total votes in the county for each individual and for and against each ballot issue; and

(f) for municipal elections, the total number of electors voting in each municipality and the votes by municipality for each individual and for and against each ballot issue.

(2) Write-in votes for an individual must be entered in the report ~~in the same place as the votes for other individuals for the same office~~ but must be identified as write-in votes."

Section 57. Section 13-15-506, MCA, is amended to read:

"13-15-506. Report of the canvass. (1) The secretary of the board shall prepare and file in the official records of the secretary of state's office a report of the canvass that lists:

(a) the total number of electors voting in each county and in each legislative house district and the total in the state;

(b) the name of each individual receiving votes and the office for which the votes were received;

(c) the number and title of each ballot issue; and

(d) the votes by county and legislative house district and the total votes for each individual and for and against each ballot issue.

(2) Write-in votes for an individual must be entered in the report ~~in the same place as votes of other~~

~~individuals for the same office~~ but must be identified as write-in votes."

Section 58. Section 13-16-201, MCA, is amended to read:

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

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

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

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

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

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

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

<u>(2) If the election is a school election, the petition is filed with the filing officer with whom the declarations</u>

for nomination for school district office were filed or with whom the school ballot issue was filed.

~~(2)~~(3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall immediately notify each election administrator ~~by certified mail~~ of the filing of the petition, and a recount must be conducted in all precincts in each affected county."

Section 59. Section 13-16-412, MCA, is amended to read:

"13-16-412. Procedure for recounting paper ballots. To conduct a recount of paper ballots:

(1) the election administrator shall provide to the recount board, unopened, each sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all the paper ballots voted in the precinct or precincts;

(2) a member of the recount board shall open each sealed package or envelope and remove the ballots, and the board shall count the votes on each ballot manually in the manner provided in 13-15-206(2), except that if the office to be recounted is on a partisan primary election ballot, votes are recounted only on the party ballots that are subject to the recount; and

(3) the recount must be tallied on previously prepared tally sheets. The tally sheets must show the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct."

Section 60. Section 13-16-419, MCA, is amended to read:

"13-16-419. Recount by board of state canvassers. (1) When the secretary of state receives certificates from all county recount boards, the secretary of state shall file them, shall fix a time and place, as soon as possible, for reconvening the board of state canvassers, and shall notify the members.

(2) The board of state canvassers shall recanvass the official returns on the office, nomination, position, or question as corrected by the certificates and make a new and corrected abstract of the votes cast.

(3) (a) If the corrected abstract shows no change in the results, further action may not be taken.

(b) If there is a change in the results, the first certificate is void and a new certificate of election or nomination must be issued in the same manner as the certificate of election or nomination was previously issued to each candidate elected or nominated."

Section 61. Section 13-17-203, MCA, is amended to read:

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

(a) a diagram showing the voting system and a sample of the ballot ~~arrangement~~ layout (in newspaper only);

(b) a statement of the locations where voting systems are on public exhibition; and

(c) instructions on how to vote.

(2) The election administrator shall select the method of notification that the election administrator believes is best suited to reach the largest number of potential electors."

Section 62. Section 13-17-503, MCA, is amended to read:

"13-17-503. Random-sample audit of vote-counting machines required -- rulemaking authority. (1) After unofficial results are available to the public in a federal election, but before the official canvass by the county board of canvassers, the county audit committee shall conduct a random-sample audit of vote-counting machines.

(2) The random-sample audit may not include a ballot that a vote-counting machine was unable to process and that was not resolved pursuant to 13-15-206 because the ballot:

(a) appeared to have at least one overvote;

(b) appeared to be blank;

(c) was in a condition that prevented its processing by a vote-counting machine; or

(d) contained a mark, error, or omission that prevented its processing by a vote-counting machine.

(3) Except as provided in subsections (4) and (5), the random-sample audit must include:

(a) at least 5% of the precincts in each county or a minimum of one precinct in each county, whichever is greater; and

(b) an election for:

(i) one statewide office race, if any;

(ii) one federal office race;

(iii) one legislative office race; and

(iv) one statewide ballot issue if a statewide ballot issue was on the ballot.

(4) The audit may not include:

(a) a retention election for a judicial candidate; or

(b) a race in which a candidate was unopposed.

(5) A county is exempt from the postelection random-sample audit requirements if:

(a) the county does not use a vote-counting machine; or

(b) the county's unofficial final vote totals for a ballot issue or for any race, ~~or ballot issue~~ except precinct committee representative, ~~involving more than one precinct~~ show a tie vote or a vote within the margins allowed by Title 13, chapter 16, part 2, for a recount without a court order. A county meeting the requirements of this subsection (5)(b) shall notify the secretary of state as soon as practicable.

(6) The secretary of state shall adopt rules to implement the provisions of this part, including but not limited to rules for:

(a) the process to be used for selecting precincts, races, and ballot issues for the random-sample audit; and

(b) the manner in which the random-sample audit of vote-counting machines will be conducted pursuant to the procedures established in this part."

Section 63. Section 13-19-102, MCA, is amended to read:

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

(1) "Ballot" means the ballot or set of ballots that is to be returned by a specified election day.

(2) "Election day" is the date established by law on which a particular election would be held if that election were being conducted by means other than a mail ballot election.

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

~~(4) "Return/verification "Return envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:~~

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

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

~~(5)~~(4) "Secrecy envelope" means an envelope used to contain the elector's ballot and that is designed to conceal the elector's ballot and to prevent that elector's ballot from being distinguished from the ballots of other electors.

(5) "SIGNATURE ENVELOPE" MEANS AN ENVELOPE THAT CONTAINS A SECRECY ENVELOPE AND BALLOT AND THAT IS DESIGNED TO:

(A) ALLOW ELECTION OFFICIALS, UPON EXAMINATION OF THE OUTSIDE OF THE ENVELOPE, TO DETERMINE THAT THE BALLOT IS BEING SUBMITTED BY SOMEONE WHO IS IN FACT A QUALIFIED ELECTOR AND WHO HAS NOT ALREADY VOTED; AND

(B) ALLOW IT TO BE USED IN THE UNITED STATES MAIL."

Section 64. Section 13-19-106, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

(8) Except as provided in 13-19-312, after the close of voting on election day, voted ballots must be

counted and canvassed as provided in Title 13, chapter 15."

Section 65. Section 13-19-206, MCA, is amended to read:

"13-19-206. Distributing materials to electors -- procedure. For each election conducted under this chapter, the election administrator shall:

(1) mail a single packet to every qualified elector of the political subdivision conducting the election;

(2) ensure that each packet contains only one each of the following:

(a) an official ballot for each type of election being held on the specified election day;

(b) a secrecy envelope;

(c) a ~~return/verification~~ ~~return~~ SIGNATURE envelope; and

(d) complete written instructions, as approved by the secretary of state pursuant to 13-19-205, for mail ballot voting procedures;

(3) ensure that each packet is:

(a) addressed to a single individual elector at the most current address available from the official registration records; and

(b) deposited in the United States mail with sufficient postage for it to be delivered to the elector's address; and

(4) mail the packet in a manner that conforms to postal regulations to require the return, not forwarding, of undelivered packets."

Section 66. Section 13-19-301, MCA, is amended to read:

"13-19-301. Voting mail ballots. (1) Upon receipt of a mailed ballot, the elector may vote 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 in the ~~return/verification~~ ~~return~~ SIGNATURE envelope;

(d) executing the ~~affidavit~~ affirmation printed on the ~~return/verification~~ ~~return~~ SIGNATURE envelope; and

(e) returning the ~~return/verification~~ ~~return~~ SIGNATURE envelope with the secrecy envelope containing the ballot, as provided in 13-19-306.

(2) For the purpose of this chapter, an official ballot is voted when the marked ballot is received at a place of deposit."

Section 67. Section 13-19-306, MCA, is amended to read:

"13-19-306. Returning marked ballots -- when -- where. (1) After complying with 13-19-301, an elector or the elector's agent or designee may return the elector's ballot on or before election day by either:

(a) depositing the ~~return/verification~~ ~~return~~ SIGNATURE envelope in the United States mail, with sufficient postage affixed; or

(b) returning it to any place of deposit designated by the election administrator pursuant to 13-19-307.

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

Section 68. Section 13-19-307, MCA, is amended to read:

"13-19-307. Places of deposit. (1) (a) The election administrator shall designate the election administrator's office and may designate one or more places in the political subdivision in which the election is being conducted as places of deposit where ballots may be returned in person by the elector or the elector's agent or designee.

(b) If the election administrator's office is not accessible pursuant to 13-3-205, the election administrator shall designate at least one accessible place of deposit.

(2) Prior to election day, ballots may be returned to any designated place of deposit during the days and times set by the election administrator and within the regular business hours of the location.

(3) On election day, each location designated as a place of deposit must be open as provided in 13-1-106, and ballots may be returned during those hours.

(4) The election administrator may designate certain locations as election day places of deposit, and any designated location functions as a place of deposit only on election day.

(5) Each place of deposit must be staffed by at least two election officials who, except for election judges serving in elections under Title 20, chapter 20, are selected in the same manner as provided for the selection of election judges in 13-4-102.

(6) The election administrator shall provide each designated place of deposit with an official ballot transport box secured as provided by law."

Section 69. Section 13-19-308, MCA, is amended to read:

"13-19-308. Disposition of ballots returned in person. Ballots returned in person by the elector or the elector's agent or designee must be processed as follows:

(1) If returned to the election administrator's office directly, the ballot must be processed in the same manner provided for ballots returned by mail except that, while the elector, agent, or designee is present, officials shall:

(a) verify the signature pursuant to 13-19-310;

(b) resolve any questions as to the validity of the ballot as provided in 13-19-314; and

(c) deposit the unopened secrecy envelope containing the voted ballot in the official ballot box.

(2) If returned to a place of deposit other than the election administrator's office, the election officials on location shall:

(a) keep a log of the names of all electors for whom the officials receive ballots;

(b) deposit the unopened ~~return/verification~~ ~~return~~ SIGNATURE envelope in the sealed ballot transport box provided for that purpose; and

(c) securely retain all voted ballots until they are transported to the election administrator's office. The transport boxes must then be opened and the ballots handled in the same manner provided for ballots returned by mail."

Section 70. Section 13-19-309, MCA, is amended to read:

"13-19-309. Disposition of ballots returned by mail. (1) Upon receipt of each ~~return/verification~~ ~~return~~ SIGNATURE envelope, election officials shall:

(a) compare the name with the official register to determine that the person has not previously voted;

(b) verify the signature on the affidavit in the manner provided by 13-19-310;

(c) open the ~~return/verification~~ ~~return~~ SIGNATURE envelope and retain it as an official record;

(d) remove and examine the secrecy envelope to determine if the ballot is valid pursuant to 13-19-311;

(e) if the ballot is valid, record the name of the elector in the official register as having voted; and

(f) deposit the unopened secrecy envelope containing the ballot in the official ballot box.

(2) If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-19-314."

Section 71. Section 13-19-310, MCA, is amended to read:

"13-19-310. Signature verification -- procedures. (1) The election administrator shall verify the signature of each elector by comparing the affidavit printed on the ~~return/verification~~ ~~return~~ SIGNATURE envelope to the signature on that elector's registration card or agent designation form or on the signature card provided under 13-19-304.

(2) If the election administrator is convinced that the individual signing the affidavit is the same as the one whose name appears on the registration card, agent designation form, or signature card, the election administrator shall proceed to validate the ballot.

(3) If the election administrator is not convinced that the individual signing the ~~return/verification~~ ~~return~~ SIGNATURE envelope is the same as the one whose name appears on the registration card, agent designation form, or signature card, the election administrator shall:

(a) designate the ballot as a provisional ballot; and

(b) give notice to the elector as provided in 13-19-313."

Section 72. Section 13-19-311, MCA, is amended to read:

"13-19-311. Valid ballots -- requirements. (1) Only valid ballots may be counted in an election conducted under this chapter.

(2) For the purpose of this chapter, a voted ballot is valid only if:

(a) it is sealed in the secrecy envelope and returned in the ~~return/verification~~ ~~return~~ SIGNATURE envelope;

(b) the elector's signature on the affidavit on the ~~return/verification~~ ~~return~~ SIGNATURE envelope is verified pursuant to 13-19-310; and

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

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

(4) A ballot is invalid if:

(a) any identifying marks are placed on the ballot by the elector; or

(b) more than one ballot is enclosed in a single ~~return/verification~~ ~~return~~ SIGNATURE or secrecy envelope unless:

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

(ii) (A) the ~~return/verification~~ ~~return~~ SIGNATURE envelope contains ballots from the same household;

(B) each ballot is in its own secrecy envelope; and

(C) the ~~return/verification~~ ~~return~~ SIGNATURE envelope contains a valid signature for each elector who has returned a ballot."

Section 73. Section 13-19-313, MCA, is amended to read:

"13-19-313. Notice to elector -- opportunity to resolve questions. (1) As soon as possible after receipt of an elector's ~~return/verification~~ ~~return~~ SIGNATURE envelope, the election administrator shall give notice to the elector by the most expedient method available if the election administrator:

(a) is unable to verify the elector's or agent's signature under 13-19-310;

(b) has discovered a procedural mistake made by the elector that would invalidate the elector's ballot under 13-19-311; or

(c) finds that the elector has failed to attest to the accuracy of the elector's address or notify the election administrator of the elector's correct mailing address as provided in 13-19-106.

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

(a) by mail or in person, verify the elector's or agent's signature, after proof of identification, by affirming that the signature is in fact the elector's, by completing a new registration card containing the elector's current signature, or by providing a new agent designation form;

(b) by mail, facsimile, telephone, or electronic means, provide the address information required under 13-19-106 or correct any minor mistake if the correction would render the ballot valid; or

(c) if necessary, request and receive a replacement ballot and vote it at the election administrator's office.

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

(4) (a) If a mail ballot is returned as undeliverable, the election administrator shall investigate the reason for the return and mail a confirmation notice. The notice must be sent by forwardable, first-class mail with a postage-paid, return-addressed notice.

(b) If the confirmation notice is returned to the election administrator, the elector must be placed on the inactive list provided for in 13-2-220 until the elector becomes a qualified elector."

Section 74. Section 13-25-101, MCA, is amended to read:

"13-25-101. Nomination of electors -- ballot. (1) In the manner and number provided by law, each political party qualified under 13-10-601 shall nominate presidential electors for this state and file with the secretary of state certificates of nomination in a form and by the date prescribed by the secretary of state. ~~However, in~~

(2) In the event of the death of a candidate for president or vice president after a certificate of nomination has been filed, a new candidate for president or vice president, or both, may be nominated for the affected political party and a new certificate of nomination may be filed with the secretary of state by the date prescribed by the secretary of state.

(3) A candidate for election to the office of president or vice president may withdraw from the election by sending a statement of withdrawal to the secretary of state. The statement of withdrawal:

(a) must contain all information necessary to identify the candidate and the office sought; and

(b) unless filed electronically, must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) A candidate may not withdraw later than the deadline prescribed by the secretary of state for nomination of presidential electors.

~~(2)~~(5) The secretary of state shall certify to the election administrator the names of the candidates for president and vice president of the several political parties, which must be placed on the ballot by one of the methods provided in 13-12-204.

(6) If the name of a new candidate for president or vice president, or both, is certified to the secretary of state in less than 76 days pursuant to subsection (1), the secretary of state shall immediately certify the new name or names to the election administrators and the new name or names must be placed on the ballot by one of the methods provided in 13-12-204.

~~(3)~~(7) The names of candidates for electors of president and vice president may not appear on the ballot."

Section 75. Section 13-38-201, MCA, is amended to read:

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

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

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

(4) If only one person of each sex has been nominated to fill a ~~precinct's~~ party's precinct positions, the election administrator may decline to include that ~~precinct's~~ party's precinct election in the primary election. If a ~~precinct's~~ party's precinct election is not held during the primary election pursuant to this subsection, the county governing body shall declare elected by acclamation the candidates nominated for that ~~precinct's~~ party's precinct committee representative positions.

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

Section 76. Section 13-38-202, MCA, is amended to read:

"13-38-202. Committee representatives as party representatives -- county and city central committees. (1) Each committee representative shall represent the representative's political party for the precinct in all ward or subdivision committees formed.

(2) The committee representatives in each precinct constitute the county central committee of the respective political parties.

(3) Committee representatives who reside within the limits of a city are ex officio the city central committee of their respective political parties and have the power to make their own rules not inconsistent with those of the county central committee. However, the county central committee has the power to fill vacancies in the city central committee.

(4) Each precinct committee representative serves a term of 2 years ~~from the date of~~ beginning on the first Monday of January following the election.

(5) If a vacancy occurs, the remaining members of the county committee may select a precinct resident to fill the vacancy."

NEW SECTION. **Section 77. Repealer.** The following sections of the Montana Code Annotated are repealed:

13-2-123. Election administrator to provide list of electors to secretary of state.

13-13-231. Disposition of marked ballot upon receipt by election administrator.

13-21-211. Replacement absentee ballots.

NEW SECTION. **Section 78. Effective date.** [This act] is effective January 1, 2012.

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