

EXHIBIT NO. 5  
 DATE 4.3.13  
 BILL NO. HB120

Montana Secretary of State – Elections and Government Services  
 House Bill 120 – General Clean-up of Title 13

| Section   | Reason   |
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| 5-2-402   | Amend subsection (3)(a) to require notification of a candidate vacancy to the state party, rather than the county central committee. Often there is not an organized and functioning county central committee. The state party has up to date contact information for all county central committees, and can more efficiently contact the appropriate county officers once they are notified of the vacancy.   |
| 13-1-101  | Definitions – add definition for "signature envelope"  |
| 13-1-210  | Very few people sign up for the "federal only" absentee list, and those that do don't understand why they are not mailed absentee ballots for other elections. If someone chooses to be on the absentee list, they will get ballots for all elections for which they are eligible. If they choose to not vote a ballot for a non-federal election, it does not affect their voter status.  |
| 13-2-107  | Change reference from "Statewide Voter Registration Database" to "Statewide Voter Registration System," as it is commonly known. The statewide system is not just a database of registered voters, but is a comprehensive election management system.  |
| 13-2-108  | Change reference from "Statewide Voter Registration Database" to "Statewide Voter Registration System," as it is commonly known. The statewide system is not just a database of registered voters, but is a comprehensive election management system.  |
| 13-2-112  | Change reference from "Statewide Voter Registration Database" to "Statewide Voter Registration System," as it is commonly known. The statewide system is not just a database of registered voters, but is a comprehensive election management system.  |
| 13-2-115  | Change reference from "Statewide Voter Registration Database" to "Statewide Voter Registration System," as it is commonly known. The statewide system is not just a database of registered voters, but is a comprehensive election management system.  |
| 13-2-122  | Change reference from "Statewide Voter Registration Database" to "Statewide Voter Registration System," as it is commonly known. The statewide system is not just a database of registered voters, but is a comprehensive election management system.  |
| 13-2-207  | Modify language to conform to the National Voter Registration Act so that an elector's registration is not canceled due to a single returned notice based on a mailing address. To be in compliance with Federal law, a forwardable notice must be sent after the non-forwardable notice. If the individual does not respond to either notice, they are placed on the Inactive list, and cancelled after they miss 2 subsequent federal elections. When redistricting is finished in the summer/fall of 2013, counties will be sending out new confirmation cards to voters, and if people have been voting for years, but have not updated their mailing address, they cannot be canceled based on the confirmation card coming back undeliverable. The EA must investigate the reason for the undeliverable notice, and must send another forwardable notice, and may then place the voter on the inactive list. |
| 13-2-301  | Due to late registration, subsection (4) regarding the ability to correct mistakes on the completed voter registration form is no longer needed. A person can correct information during the late registration period.   |
| 13-2-304  | Clarify that a late registrant must appear at the county election office (or the location designated by the election administrator if not the election office) to late register; (c)specify that a late registrant may drop their absentee ballot off at the polling place on election day, or at the election office anytime during the late registration period. (3) clarify that if a school election is conducted by the EA and there is a non-school election being conducted the same day, late registration would apply to the school election. This eliminates the EA from having to allow late registration for the non-school election but not for the school election being run simultaneously. (This is how it is handled administratively now).   |
| 13-10-201 | Mont. Code Ann. §§ 13-10-501 and 13-14-133 refer to the oath being on the candidate filing form, but the main candidate filing statute does not specifically refer to an oath or its contents. This oath is currently on the form, and this change makes 13-10-201 consistent with 13-10-501 and 13-14-133. (8) clarifies that the nomination form must be properly completed and signed when sent by one of the allowable methods. Added email as a method to submit the form, since fax has been allowed for a decade, and more people seem to have email access than fax machine access.  |
| 13-10-209 | (1) Clarify that the party name does not appear "opposite" a candidate's name, but generally appears below the name due to ballot space constraints. In subsection (2)(a), substituted the word "and" for "or" to allow a political party access to the primary ballot in some circumstances ( <b>if either one or the other criteria is met, a primary ballot is not needed to be printed.</b> ) Under current language, <b>both criteria must be met</b> in order to <b>not</b> print a primary ballot (it is a double-negative, and so can be confusing). This change reverts to language in existence prior to 2005 when a drafting edit created the problem by changing the "or" to "and". (This came to light in 2012 when a minor party had 2 candidates for one race,  |

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|           | and because they did not meet the other criteria of having candidates in more than half the offices on the ballot, counties did not have to print a primary ballot, which would have meant that both candidates would have appeared on the general election ballot for that race (one of the candidates ended up withdrawing, so this did not happen). <b>With this change, if minor parties meet one or the other criteria, a primary ballot would be printed for that party.</b> In (b) (iii) Specify that counties do not need written approval from the SOS to print ballot issues on a separate ballot page. (3) specifies that if the only race that would qualify a party for a primary ballot is a precinct race, a primary ballot does not need to be printed, and the party will select the candidate to fill the office.  |
| 13-10-211 | Clarify that if an election is canceled for any reason provided by law, the write-in option does not apply. (5) clarify that a form must be properly completed and signed when submitted, and (5) (a) remove the outdated phrase "if a facsimile facility is available for receipt", because the SOS and county election offices all have access to fax machines. (5) (d) add email as an option to submit a form since most people more readily have email access than fax access.  |
| 13-10-302 | Clarify that write-in votes from different parties' ballots are not added together whether or not a candidate's name appears on more than one ballot.  |
| 13-10-404 | Allow an authorized campaign official to sign the declaration for nomination for a presidential candidate. (This has been done administratively for years, and is being codified so that there is no room for question on a presidential filing form).   |
| 13-10-503 | (1) removes the option for submitting some petition signatures by the one week deadline, and submitting the rest by the filing deadline. This has become a "loophole" whereby Independent and minor party candidates can drop off a petition with only a few signatures, and then drop the rest off at the deadline, leaving no time for the EA to verify the signatures. (2) The independent candidate filing deadline in (2) reverts to language that existed prior to a 2007 amendment pursuant to a U.S. District Court ruling whereby Montana's filing deadline for Independent and minor party candidates was determined to be unconstitutional. See <i>Kelly v. Johnson (McCulloch)</i> . Filing deadline will now go back to "before the primary", so petitions are due one week before the day before the primary, and the filing form and fee are due by 5 p.m. the day before election day.   |
| 13-10-507 | Clarify the meaning of "associated with a political party" to mean that it is only a Montana office that is referred to, and that it includes an public partisan office and precinct office.   |
| 13-13-112 | The stylistic changes are suggested to conform to federal requirements of the Help America Vote Act.   |
| 13-13-118 | In subsection (3), remove the requirement that election judges announce the name of a disabled elector who cannot enter the polling place, because of concerns about violating a person's privacy, and because there is not a good reason to do so. (Request of EAs)   |
| 13-13-201 | Change the envelope name to "signature" envelope consistent with changes made in 2011 clean-up bill (this section was missed). Remove the reference to "special" absentee board because the language is outdated, and current practice is to use regular election judges or staff rather than appointing a special board. Added "or an authorized election official" to specify that election officials can perform this duty as well as election judges.  |
| 13-13-204 | (2)(b) removing language that is not necessary because it is in (2) (a) and does not need to be repeated. Change reference from "Statewide Voter Registration Database" to "Statewide Voter Registration System," as it is commonly known. In (6), clarify that a ballot must be "received" by the EA, not just "returned to".   |
| 13-13-211 | This change is suggested in order to accommodate electors who may be ill or have a health emergency that occurs after 5 p.m. the Friday before election day, and allows them to apply for and received an absentee ballot until the 8 p.m. on election day, rather than only until noon. People are late registering until 8 p.m., and it has not seemed fair to disallow a person with a health emergency to not be able to apply for the receive an absentee ballot after noon on election day. In 2012 there were cases of a family member coming in to request a ballot for someone who was in a car accident over the weekend, was hospitalized and could not go to the polls. Under current law this person could not be issued a ballot if the request was made after noon. (The EAs added an amendment to this section that specifies that the voter or their designee is responsible for picking up and returning such a ballot if requested after noon on election day). |
| 13-13-212 | Remove the reference to "special" absentee board because current practice is to use regular election judges or staff rather than appointing a special board. Subsection (3) is removed because replacement ballots are covered in Mont. Code Ann. § 13-13-204. (d) is an EA amendment that specifies that an elector or their designee is responsible for picking up and returning and absentee ballot requested pursuant to (2) (c). New subsection (3) is amended to reflect that individuals on the absentee list should receive all ballots, not just those for federal elections, consistent with revisions to previous code.   |
| 13-13-213 | (1) is amended to specify that an application for absentee ballot must be addressed to the county election office, rather than the county election official. If partisan information is sent with the application, it can appear that the EA is involved in the partisan mailing if their name appears on the form. Subsection (2) is  |

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|           | amended to allow absentee applications to be received by facsimile or other electronic means (fax has been allowed by Rule for years). In addition, the reference to "special" absentee board is removed consistent with previous changes to code because current practice is to use regular election judges or staff rather than appointing a special board.  |
| 13-13-214 | To clarify that absentee ballots mailed to electors are nonforwardable and must be returned to the election administrator if not deliverable. This is done administratively currently, and is consistent with statute for mail ballots. Change the envelope name to "signature" envelope consistent with changes made in 2011 clean-up bill (this section was missed).   |
| 13-13-225 | Remove the reference to "special" absentee board consistent with change to previous code because current practice is to use regular election judges or staff rather than appointing a special board.   |
| 13-13-226 | Remove the reference to "special" absentee board consistent with change to previous code because current practice is to use regular election judges or staff rather than appointing a special board.   |
| 13-13-229 | Remove the reference to "special" absentee board consistent with change to previous code because current practice is to use regular election judges or staff rather than appointing a special board. Change the name of the envelope consistent with 2011 changes that were missed in this section.  |
| 13-13-230 | Remove the reference to "special" absentee board consistent with change to previous code because current practice is to use regular election judges or staff rather than appointing a special board.   |
| 13-13-241 | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill)   |
| 13-13-244 | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill)   |
| 13-13-245 | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill); Clarify that a ballot is provisional because the validity of the ballot is in question or the signature is in question. Currently the wording in (1) assumes that a ballot is provisional <i>only</i> because of the signature, which is not accurate.   |
| 13-13-301 | Clarify that under Montana law, a challenge to an elector's right to vote must be specific to that individual. In 2008, the federal district court ruled that "blanket" challenges are not allowed.  |
| 13-13-602 | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill)   |
| 13-13-603 | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill)   |
| 13-14-113 | Clarify that if there is not a signature requirement, candidates must file a declaration for nomination rather than a petition for nomination.   |
| 13-15-107 | Remove the reference to a provisionally registered "elector," and substitute the word "individual." Just because someone votes a provisional ballot does not mean the individual is a provisionally registered "elector."  |
| 13-15-108 | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill)   |
| 13-15-201 | Change reference from "voted" ballot to a "marked" ballot. Other statutes define a "voted" ballot as one that has been received by the election office. In (8)(a)(ii), clarify that a ballot with identifying marks is now allowed to be resolved like provisional ballots whose validity is in question (unsigned, ID number, etc.), but must be rejected.  |
| 13-15-206 | Change reference from "voted" ballot to a "marked" ballot. Other statutes define a "voted" ballot as one that has been received by the election office. (d) change "pollbook" to "official results records" since results are not recorded in the pollbook.  |
| 13-15-401 | Eliminates the reference to 3 days in conducting the canvass, to correct a previous legislative omission. Canvass board must meet within 14 days after the election, and cannot meet within 3 days because of the post election audit, and counting of provisional ballots that both occur before the canvass. This was missed in previous legislation when the post election audit act was passed.  |
| 13-16-201 | Eliminates the requirement that the Secretary of State notify by certified mail all the counties where recounts are required because that process is laborious and unnecessary in this era of modern communication (notice can be sent by email with a read receipt). Also, the counties would be well aware of the possibility of recount since a recount would exempt them of the post-election audit.   |
| 13-16-211 | Substitute "election administrator" for "clerk and recorder," (a-b) for consistency among counties, specify the costs the bond can cover, and specify that the "county recount board", not the board of canvassers, will conduct the recount. (The county recount board is made up of 3 members of the governing body, as is the board of canvassers, but the correct terminology for the body responsible for the recount is "county recount board"). |
| 13-16-417 | Eliminate the reference to "voting system(s)" because recounts are conducted manually according to MT law.   |
| 13-17-203 | Clarify that only diagrams of voting systems to be used by voters need to be publicized (the M100 precinct machine and the AutoMARK).  |
| 13-17-211 | Eliminate the reference to recount because recounts are conducted manually and do not involve voting systems.  |
| 13-19-102 | Remove definition for "signature envelope" from the mail ballot definitions to the general definitions in 13-1-101.  |

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| 13-19-106        | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill)  |
| 13-19-304        | Clarify that a nonregistered elector who demonstrates they possess the qualifications required for voting, may vote in certain authorized elections if they appear in person at the election administrator's office by 8 p.m. on election day. (This section is for those special district elections that allow non-registered, property owners, to vote in their elections). |
| 13-21-210        | Remove option for "federal only" absentee list consistent with changes to previous code. Individuals on the absentee list should receive all ballots, not just those for federal elections.   |
| 13-21-212        | Change name of envelope to "signature" envelope (missed in 2011 clean-up bill)  |
| 13-35-218        | Eliminate (2) in its entirety because the language was the subject of a lawsuit and it was stipulated by the Attorney General in 2012 that this subsection would never be enforced.   |
| 13-37-126        | Clarify that the Secretary of State's certification of candidates can only occur after the Commissioner of Political Practices' certification. Current reading could result in someone believing that the CPP has 8 days after the SOS certifies. (This is a clarification, and is handled correctly administratively now).   |
| <b>13-38-201</b> | Specify that a tie vote for a precinct committee representative position is resolved by the central committee determining a winner by lot. (It was not clear under current statute who decided the tie by lot, and some assumed that the election administrator would do so).   |