



AN ACT GENERALLY UPDATING AND REVISING PROVISIONS ON VOTING SYSTEM TECHNOLOGIES, BALLOT FORMATS, AND VOTE COUNTING; SPECIFYING UNIFORM STANDARDS FOR THE SECRETARY OF STATE'S APPROVAL OF A VOTING SYSTEM FOR USE IN THE STATE; REQUIRING THE SECRETARY OF STATE TO ADOPT UNIFORM STATEWIDE RULES; REQUIRING ELECTION ADMINISTRATORS TO COLLECT AND REPORT CERTAIN DATA; PROVIDING UNIFORM PROCEDURES ON HOW VOTES ARE COUNTED; CLARIFYING TRAINING REQUIREMENTS FOR ELECTION ADMINISTRATORS AND ELECTION JUDGES; CLARIFYING THE APPLICATION OF CERTAIN ELECTION LAWS TO SCHOOL ELECTION AND SCHOOL ELECTION ADMINISTRATORS; AMENDING SECTIONS 13-1-101, 13-1-103, 13-1-202, 13-1-203, 13-3-105, 13-4-101, 13-4-102, 13-4-203, 13-10-204, 13-10-208, 13-10-209, 13-10-211, 13-10-301, 13-10-302, 13-10-303, 13-10-311, 13-12-201, 13-12-202, 13-12-203, 13-12-204, 13-12-205, 13-12-212, 13-13-111, 13-13-112, 13-13-115, 13-13-116, 13-13-117, 13-13-201, 13-13-203, 13-13-205, 13-13-211, 13-13-212, 13-13-214, 13-13-222, 13-13-229, 13-13-231, 13-13-232, 13-13-233, 13-13-234, 13-13-241, 13-13-244, 13-14-115, 13-14-116, 13-14-117, 13-14-118, 13-14-212, 13-15-101, 13-15-103, 13-15-104, 13-15-105, 13-15-201, 13-16-201, 13-16-303, 13-16-411, 13-16-412, 13-16-414, 13-16-417, 13-16-420, 13-17-101, 13-17-102, 13-17-103, 13-17-104, 13-17-105, 13-17-106, 13-17-107, 13-17-201, 13-17-203, 13-17-204, 13-17-206, 13-17-305, 13-17-306, 13-19-106, 13-19-309, 13-19-312, 13-19-314, 13-25-101, 13-27-501, 13-27-502, 13-35-202, 13-35-205, 13-35-206, 13-37-126, 13-37-250, 13-38-201, 20-20-421, AND 76-15-303, MCA; AND REPEALING SECTIONS 13-12-208, 13-12-209, 13-13-221, 13-15-202, 13-16-413, AND 13-17-301, MCA.

WHEREAS, the U.S. Supreme Court in *Bush v. Gore*, 531 U.S. 98 (2000), found that the lack of uniform procedures for determining voter intent in Florida during the 2000 presidential election led to a violation of the U.S. Constitution's Equal Protection Clause of the 14th Amendment; and

WHEREAS, at the request of the 57th Legislature, the State Administration and Veterans' Affairs Interim Committee devoted much of the 2001-2002 interim to a review of Montana election laws with respect to voting systems and counting processes in light of *Bush v. Gore*; and

WHEREAS, the interim study found that Montana's statutory provisions relating to ballots, voting systems, and vote counting processes needed to be updated, clarified, and in some instances revised to better define

uniform standards and procedures to provide equal protection for votes cast by Montana voters; and

WHEREAS, the Subcommittee on Voting Systems of the State Administration and Veterans' Affairs Interim Committee agreed that statutory changes should be made with an eye on future technology but should also standardize current practices to the greatest extent possible.

THEREFORE, this legislation will enable the Secretary of State to adopt a statewide benchmark performance measure that voting systems must meet before they can be approved for use in the state; allow local election administrators to continue to choose which of the approved voting systems should be used locally; require the Secretary of State to adopt uniform statewide rules regarding ballot form, votes and vote counts, and other operational procedures specific to each voting system and to provide training to local election administrators; and require all counting boards to use the uniform counting procedures specified.

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

**Section 1. 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 three of the election judges to act as a counting board. The governing body may also designate three of the election judges to act as an absentee ballot counting board under 13-15-104.

**Section 2. 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 of votes cast on a paper ballot 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 rules adopted pursuant to subsection (7). If a vote has not been cast according to instructions, the entire ballot must be set aside and counted 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) Except as provided in subsection (3)(b):

(i) if a vote on a paper ballot or nonpaper ballot is recognized and counted by the system, it is a valid vote;

(ii) if a vote on a paper ballot or nonpaper ballot 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) (i) If a paper ballot being counted by a voting system is rejected by the system or if the system records an overvote or undervote on a ballot, the ballot must be set aside and counted as provided in subsection (4).

(ii) If an election administrator determines that a voting system is not functioning correctly, the election administrator shall follow the procedures prescribed in 13-16-414.

(c) After all valid votes have been counted and totaled pursuant to subsection (4) and this subsection (3), the judges shall record in the pollbook the information specified in subsection (2)(b)(ii).

(4) (a) Each questionable vote on a paper ballot set aside under subsection (2)(a) or (3)(b) must be counted if the voter's intent can be clearly determined and agreed upon by a majority of the election judges on the counting board in accordance with rules adopted pursuant to subsection (7).

(b) After each questionable vote on a ballot set aside under subsection (2)(a) or (3)(b) has been determined to be a valid vote, an invalid vote, or an intentional nonvote, the valid votes must be counted manually or automatically tabulated by the voting system. If the votes are to be counted manually, the votes must be tallied as provided in subsection (2). If the votes are to be counted using a voting system, all valid votes must be transferred to a ballot that will be accepted by the voting system and tabulated as provided in subsection (3).

(c) Votes counted pursuant to this subsection (4) and the votes initially counted under subsections (2) and (3) must be totaled.

(5) A write-in vote may be counted only if the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a).

(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:

(a) "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; and

(b) "undervote" means an elector's vote that has been interpreted by the voting system as a nonvote.

**Section 3. Uniform procedures for using voting systems.** (1) For each voting system approved under 13-17-101, the secretary of state shall adopt rules specifying the procedures to be uniformly applied in elections conducted with the voting system.

(2) The rules must, at a minimum, specify procedures that address the following:

- (a) performance certification under [section 4];
- (b) how electors ensure the proper disposition of a ballot pursuant to 13-13-117(2);
- (c) the process to be used to prepare for a vote count under 13-10-311(3) and 13-15-201(2) for nonpaper ballots so that election judges can determine the total number of electors voting in the election compared to the total number of ballots cast;

(d) the procedures to be followed if the comparison under [section 2(2)(b)] reveals discrepancies;

(e) recount procedures under 13-16-412(2);

- (f) voting system tests to correct discrepancies under 13-16-414(1)(a);
- (g) what contingencies must be made for recounts pursuant to 13-16-414(3)(b);
- (h) the security measures necessary to secure the voting system before, during, and after an election, including security following a recount under 13-16-417; and
- (i) testing and certification of voting systems pursuant to [section 4].

**Section 4. Performance certification of voting systems prior to election.** No more than 30 days prior to an election in which a voting system is used, the election administrator shall test and certify that the system is performing properly. The test and certification must be conducted according to rules adopted by the secretary of state pursuant to [section 3].

**Section 5.** Section 13-1-101, MCA, is amended to read:

**"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

- (1) "Active elector" means a qualified elector whose name is on the active list.
- (2) "Active list" means a list of active electors maintained by an election administrator pursuant to 13-2-219.
- (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.
- (4) "Application for voter registration" means a completed voter registration card submitted to the election administrator and subject to confirmation, as provided in 13-2-207.
- (5) "Ballot" means:
  - (a) a paper ballot used with a paper-based system, such as an optical scan system[, a punchcard voting system,] or other technology that automatically tabulates votes cast by processing the paper ballots; or
  - (b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.
- ~~(5)~~(6) "Candidate" means:
  - (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;
  - (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained

contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

- (i) solicitation is made;
- (ii) contribution is received and retained; or
- (iii) expenditure is made; and
- (c) an officeholder who is the subject of a recall election.

~~(6)~~(7) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders or employees; or

(iv) filing fees paid by the candidate.

~~(7)~~(8) "Election" means a general, regular, special, or primary election held pursuant to the requirements of state law, regardless of the time or purpose.

~~(8)~~(9) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

~~(9)~~(10) "Elector" means an individual qualified and registered to vote under state law.

~~(10)~~(11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or

gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection ~~(6)~~ (7);

(ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

~~(11)~~(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress.

~~(12)~~(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

~~(13)~~(14) "Inactive elector" means an individual whose name is placed on an inactive list.

~~(14)~~(15) "Inactive list" means a list of inactive electors maintained by an election administrator pursuant to 13-2-219.

~~(15)~~(16) "Individual" means a human being.

~~(16)~~(17) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon approval by the secretary of state of the form of the petition or referral.

~~(17)~~(18) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection ~~(5)~~ (6).

~~(18)~~(19) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

~~(19)~~(20) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

~~(20)~~(21) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

~~(21)~~(22) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(22)~~(23) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

~~(23)~~(24) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(25) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in [section 2].

~~(24)~~(26) "Voting ~~machine or device~~ system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or ~~in any manner~~ process the vote of an elector cast on a paper or nonpaper ballot."

**Section 6.** Section 13-1-103, MCA, is amended to read:

**"13-1-103. Determination of winner.** The individual receiving the highest number of valid votes for any



office at an election is elected or nominated to that office."

**Section 7.** Section 13-1-202, MCA, is amended to read:

**"13-1-202. Forms and rules prescribed by ~~chief election officer~~ secretary of state -- consultation.**

(1) In carrying out ~~his~~ the responsibilities under 13-1-201, the secretary of state shall prepare and deliver to the election administrators:

- (a) written directives and instructions relating to and based on the election laws;
- (b) sample copies of prescribed and suggested forms; and
- (c) advisory opinions on the effect of election laws other than those laws in ~~chapters~~ chapter 35, 36, or 37 of this title.

(2) The secretary of state may prescribe the design of any election form required by law. ~~He~~ The secretary of state shall ~~must~~ seek the advice of election administrators and printers in designing the required forms.

(3) Each election administrator shall comply with the directives and instructions and shall provide election forms prepared as prescribed.

(4) Each election administrator shall provide data to the secretary of state that the secretary of state determines is necessary to:

- (a) evaluate voting system performance against the benchmark standard adopted pursuant to 13-17-103(2);
- (b) evaluate the security, accuracy, and accessibility of elections; and
- (c) assist the secretary of state in making recommendations to improve voter confidence in the integrity of the election process.

(5) The secretary of state shall regularly consult with and seek the advice of local election administrators in implementing the provisions of this section."

**Section 8.** Section 13-1-203, MCA, is amended to read:

**"13-1-203. ~~Chief election officer~~ Secretary of state to advise, assist, and train.** (1) The secretary of state shall advise and assist election administrators, including administrators of school elections under Title 20, chapter 20, with regard to:

- (a) the application, operation, and interpretation of Title 13, except for chapter 35, 36, or 37, and;

(b) the implementation and operation of the National Voter Registration Act of 1993, Public Law 103-31; and

(c) the procedures adopted pursuant to [section 3]. ~~The secretary of state shall hold at least one workshop every 2 years to provide training and assistance to election administrators. Election administrators must be reimbursed, from funds appropriated to the secretary of state, for their mileage and expenses for attending the workshops at the rates set for mileage and expenses in 2-18-501 through 2-18-503. At the discretion of the secretary of state and within the budget limits allowed for workshops, the workshops may be held in several sessions at separate locations in the state.~~

(2) The secretary of state shall prepare and distribute training materials for election judges to be trained pursuant to 13-4-203. Sufficient copies of the materials to supply all election judges in the county and to provide a small extra supply must be sent to each election administrator.

(3) The secretary of state shall hold at least one workshop every 2 years to instruct election administrators and their staffs in use of the materials. Workshops may be held in various locations around the state. Costs of the materials and workshops must be paid by the secretary of state. Attendees of the training must receive a certificate of instruction, which is valid for 2 years."

**Section 9.** 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 ~~shall~~ 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 ~~shall~~ 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. ~~Such~~ 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 10.** Section 13-4-101, MCA, is amended to read:

**"13-4-101. Appointment of election judges ~~--other boards of election judges.~~** ~~(1)~~ At least 30 days before the primary election in even-numbered years, the county governing body shall appoint ~~3~~ three or more election judges for each precinct, one of whom ~~shall~~ must be designated chief judge.

~~(2) A board of election judges, designated as a counting board, may be appointed in any precinct if recommended by the election administrator.~~

~~----- (3) A board of election judges, designated as a counting board for absentee ballots, may be appointed to count all absentee ballots for all precincts if recommended by the election administrator."~~

**Section 11.** Section 13-4-102, MCA, is amended to read:

**"13-4-102. Manner of choosing election judges.** (1) ~~Election~~ Subject to 13-4-107, election judges ~~shall~~ 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 ~~shall~~ must be given to the election administrator for use in making appointments to fill vacancies.

(3) Each board of election judges ~~shall contain~~ must include judges representing all parties that have submitted lists as provided in subsection (1). No more than ~~a~~ 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, the governing body shall, insofar as 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, the election administrator may randomly select, either by manual drawing or by computer, sufficient qualified registered electors in the county 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 ~~assigned by the election administrator for 2 years~~ provided in 13-4-103."

**Section 12.** Section 13-4-203, MCA, is amended to read:

**"13-4-203. Instruction of judges -- training materials.** (1) Before each election, all election judges who do not possess a current certificate of instruction ~~shall~~ obtained pursuant to 13-1-203(3) must be instructed by the election administrator. In precincts where voting ~~machines or devices~~ systems are used, instructions ~~shall~~ must cover both ~~machines or devices~~ how to operate the voting system and how to manually process any paper ballots.

(2) Chief judges may be required to attend the training session before each election, as well as a special session that may be held for chief judges only, even if they possess a current certificate of instruction.

(3) Any individual willing to be appointed as an election judge may attend an instruction session by registering with the election administrator. ~~Such individuals~~ However, the individual may not be paid for attendance unless ~~they are~~ the individual is appointed as an election ~~judges~~ judge.

~~(4) The secretary of state shall prepare and distribute training materials for election judges. The materials shall include instructions on the use of all machines or devices approved for use in this state, as well as paper ballots. Enough copies of the materials to supply all election judges in the county and provide a small extra supply shall be sent to each election administrator. The secretary of state shall hold at least one workshop every 2 years to instruct election administrators and their staffs in use of the materials. Workshops may be held in various locations around the state. Costs of the materials and workshops shall be paid by the secretary of state.~~

~~(5)(4)~~ Each election judge completing a training session under this section ~~shall~~ must be given a certificate of completion. ~~No~~ An individual may not serve as an election judge without a valid certificate obtained under 13-1-203(3) or this section. However, this does not apply to individuals filling vacancies in emergencies.

~~(6)(5)~~ All certificates of completion expire 30 days before the primary election in even-numbered years.

~~(7)(6)~~ Notice of place and time of instruction must be given by the election administrator to the presiding officers of the political parties in the county ~~chairmen of the political parties.~~"

**Section 13.** Section 13-10-204, MCA, is amended to read:

**"13-10-204. Write-in nominations.** An individual nominated by having ~~his~~ the individual's name written in or otherwise placed on the primary ballot and desiring to accept the nomination may not have ~~his~~ the individual's name ~~printed~~ appear on the general election ballot unless ~~he~~ the individual:

- (1) files with the secretary of state or election administrator, no later than 10 days after the official canvass, a written declaration indicating ~~his~~ acceptance of the nomination;
- (2) pays the required filing fee or, if indigent, complies with 13-10-203;
- (3) received at least 5% of the total votes cast for the successful candidate for the same office at the last general election; and
- (4) complies with the provisions of 13-37-126."

**Section 14.** Section 13-10-208, MCA, is amended to read:

**"13-10-208. Certificate of primary ballot -- ~~printing~~ preparing ballot.** (1) Not more than 75 days and not less than 67 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(2) Not more than 67 days and not less than 62 days before the date of the primary election, the election administrator shall certify the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official record of the election administrator's office and must have the official ballots ~~printed~~ prepared in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325."

**Section 15.** Section 13-10-209, MCA, is amended to read:

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

~~printed~~ appear opposite each candidate's name.

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

- (i) each section is clearly identified as separate; ~~and~~
- (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 ~~print~~ prepare a primary ballot for a political party if:

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

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

(3) If, pursuant to subsection (2), a primary ballot for a political party is not ~~printed~~ 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 ~~be have~~ the same ~~size and color~~ appearance. ~~The stubs of each~~ Each set of party ballots must bear the same number. If ~~printed~~ prepared as a separate ballot, the nonpartisan ballot must ~~be have~~ a different ~~size or color~~ appearance than the party ballots; but ~~the stubs~~ 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 ~~be have~~ a different ~~size and color~~ appearance than the other ballots in the election; but ~~the stubs~~ must be numbered in the same order.

(6) Each elector ~~shall~~ must receive a set of ~~party~~ ballots that includes the party, and a nonpartisan, and a ballot issue ~~ballot if those ballots are printed~~ choices."

**Section 16.** 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 (5);~~ A person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. 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. Except as provided in subsections (2) and (3), the declaration must be filed no

later than 5 p.m. on the 15th day before 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:

- (a) dies;
- (b) withdraws from the election; or
- (c) is charged with a felony offense.

(3) A person seeking to become a write-in candidate for a trustee position on a school board 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) The requirements in subsection (1) do not apply to a write-in candidate seeking election to an office for which a candidate has not filed a declaration or petition for nomination or a declaration of intent.~~

~~————(6)~~(5) A declaration of intent 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 17.** Section 13-10-301, MCA, is amended to read:

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

(2) At a primary election, the elector shall ~~mark~~ cast votes on only one of the ~~set of~~ party ballots, preparing the ballot as provided in 13-13-117. After ~~marking~~ casting votes on any other ballots received other than the party ballots, the elector shall ~~fold the marked and unmarked ballots separately in a manner so that the marks cannot be seen, the official stamp is visible on each ballot, and all stubs can be detached by an election judge~~ ensure the proper disposition of the ballots in accordance with instructions provided pursuant to 13-13-112.

~~(3) The elector shall hand the marked and unmarked ballots separately to the election judge, identifying them as marked and unmarked. If the judge determines the ballots may be voted, he shall, in the presence of the elector:~~

- ~~—— (a) remove the stubs from all the ballots;~~
- ~~—— (b) deposit the unmarked ballot or ballots and all the stubs in the stub and unmarked ballot box;~~
- ~~—— (c) and deposit the marked ballots in the voted ballot box.~~

(3) The election judge shall handle the elector's ballot as prescribed in 13-13-117."

**Section 18.** Section 13-10-302, MCA, is amended to read:

**"13-10-302. Write-in votes for previously nominated candidates.** ~~If~~ (1) Subject to subsection (2), if an elector ~~writes the name of an individual upon~~ casts a write-in vote for a candidate on a primary party ballot when the ~~individual's~~ candidate's name also appears ~~as a candidate~~ for the same office on another ~~party~~ party's ballot, the write-in vote ~~shall count for the individual only as a candidate of the party upon whose ballot the individual's name is written~~ counts only with respect to the party on whose ballot the write-in vote was cast and the write-in votes and the votes cast for the candidate on the ~~separate party~~ other party's ballots may not be added together. ~~Except as provided in 13-10-211(5), a~~

(2) A write-in vote may be counted only if the vote identifies the individual by any of the designations filed pursuant to 13-10-211(1)(a)(i) through (1)(a)(iv)."



**Section 19.** Section 13-10-303, MCA, is amended to read:

**"13-10-303. Nominations by more than one party.** If an individual is nominated by more than one party, ~~he the individual~~ shall, not later than 10 days after the election, file written notification with the secretary of state or election administrator indicating the party under which ~~his the individual's~~ name is to appear upon the ballot for the general election. If ~~he the individual~~ fails to notify the proper officers, ~~his the individual's~~ name ~~shall~~ must appear under the party with whom ~~his the~~ declaration for nomination was filed if a declaration was filed. If an individual did not file a declaration or acceptance of nomination and fails to notify the proper officers, ~~his the individual's~~ name ~~shall be printed~~ must appear on the ballot without a party designation."

**Section 20.** Section 13-10-311, MCA, is amended to read:

**"13-10-311. Election judges' duties ~~upon closing of polls~~ when preparing for count.** (1) ~~The~~ Except as otherwise provided in this section, election judges at the primary election shall prepare for a count of votes cast on paper ballots in the manner prescribed in 13-15-201.

(2) In preparing for a count of paper ballots, the election judges shall:

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

~~(2)(b) They shall~~ reconcile the total number of party ballots and the separate total number of other ballots used at the election with the number of electors voting. Any discrepancies in the reconciliations ~~shall~~ must be handled as provided in 13-15-201~~(3)~~.

~~(3) Each party's candidates shall be listed~~

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

~~(4) The voted ballots of each party shall be bundled~~

(d) bundle the voted ballots for each party separately for return to the election administrator. The unvoted ballots deposited in the stub box shall must be bundled with the stubs in accordance with rules established pursuant to 13-12-202.

(3) At a primary election, the election judges shall prepare for the counting of nonpaper ballots in the manner prescribed under rules adopted pursuant to [section 3]."

**Section 21.** Section 13-12-201, MCA, is amended to read:

**"13-12-201. Secretary of state to certify ballot.** (1) Seventy-five days or more before an election, except as provided in 13-10-208, the secretary of state shall certify to the election administrators the name and

party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the secretary of state's office, which must include the notification specified in 13-37-126.

(2) The election administrator shall certify the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the election administrator's office, which must include the notification specified in 13-37-126, and shall have the official ballots ~~printed~~ prepared.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325."

**Section 22.** 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 all types of ballots 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 ~~printed upon~~ to appear on the ballots ~~shall~~ must be in ~~type of~~ the same font size and character style.

(3) ~~When~~ 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 ~~every~~ 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 ~~shall~~ must appear on the ballot as provided in 13-25-101(2)."

**Section 23.** Section 13-12-203, MCA, is amended to read:

**"13-12-203. Printing Appearance of candidate's name and party designation on ballot.** (1) ~~Except~~ 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 ~~shall be printed~~ must appear under the title of the office sought, with the name of the party; in not more than three words, ~~or "Independent"~~ printed appearing opposite the name.

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

**Section 24.** Section 13-12-204, MCA, is amended to read:

**"13-12-204. Method of correction of ballot.** If an appointment has been made to replace a candidate, as provided in 13-10-326, 13-10-327, or 13-10-328, or if a candidate for lieutenant governor has been advanced to the candidacy for governor, as provided in 13-10-328, after the ballots have been ~~printed~~ prepared but before the election, the election administrator may:

(1) ~~order labels printed containing the name of the new candidate and any other information required to go on the ballot. If labels are printed, the election administrator shall affix the labels in the proper place on each ballot or deliver the labels to the chief election judges to be affixed in the proper place on each ballot before it is given to the elector.~~ correct the ballot in a manner consistent with rules adopted under 13-12-202;

(2) have the entire ballot ~~reprinted~~ redone; or

(3) have a separate ballot prepared only for the office for which the new candidate is a candidate."

**Section 25.** Section 13-12-205, MCA, is amended to read:

**"13-12-205. Arrangement of names -- rotation on ballot.** (1) The candidates' names ~~shall~~ must be arranged alphabetically on the ballot according to surnames under the title of the respective offices and rotated as provided in this section.

(2) (a) Except as provided in subsection (3), if two or more individuals are candidates for nomination or election to the same office, the election administrator shall divide the ballot forms into sets equal in number to the greatest number of candidates for any office. The candidates for nomination to an office by each political party

~~shall~~ must be considered separately in determining the number of sets necessary for a primary election.

(b) The election administrator shall begin with a form arranged alphabetically and rotate so that each candidate's name will be at the top of the list for each office on substantially an equal number of ballots. If it is not numerically possible to place each candidate's name at the top of the list, the names ~~shall~~ must be rotated in groups so that each candidate's name is as near the top of the list as possible on substantially an equal number of ballots.

(c) If the county contains more than one legislative district, the election administrator may rotate each candidate's name so that it will be at or near the top of the list for each office on substantially an equal number of ballots in each house district.

(d) For purposes of rotation, the offices of president and vice president and of governor and lieutenant governor ~~shall~~ must be considered as a group.

(e) No more than one of the sets may be used in ~~printing~~ preparing the ballot for use in any one precinct, and all ballots furnished for use in any precinct must be identical.

(3) In a precinct where ~~voting devices are~~ a nonpaper-based voting system is used, the election administrator need not rotate candidates' names as provided in subsection (2) on ~~the~~ paper ballots required under 13-17-305; ~~however, if~~ unless more than 5% of the electors voting in the precinct in the last preceding general election voted using paper ballots, ~~the election administrator shall rotate candidates' names on the paper ballots.~~ If the candidates' names are not rotated, the election administrator shall determine by lot the arrangement of the names on the paper ballot required under 13-17-305."

**Section 26.** Section 13-12-212, MCA, is amended to read:

**"13-12-212. Election administrator to provide printed official ballots -- other ballots prohibited.**

~~Except as otherwise provided in the election laws of this state:~~

~~—— (1) the~~ Each election administrator shall provide ~~printed~~ the official ballots for every election conducted by the election administrator. ~~He shall have printed on the ballot the names of all candidates for all offices to be filled at the election and the title and other wording required by law for all ballot issues.~~

~~—— (2) ballots~~ A ballot other than those printed by the election administrator an official ballot may not be cast or counted in any election."

**Section 27.** Section 13-13-111, MCA, is amended to read:

**"13-13-111. Provision and use of election booths, voting machines, or voting devices stations.**

(1) The election administrator shall provide a sufficient number of ~~booths, voting machines, or voting devices~~ stations to allow voting to proceed with as little delay as possible.

(2) ~~Booths, voting machines, or voting devices~~ Voting stations must be arranged in a manner that will not permit any other individual to see how the elector votes or has voted, ~~and the election judges may not permit any individual to remain in any position that would allow him to see how the elector votes or has voted.~~

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

(4) ~~An~~ individual may not occupy a ~~booth or use a voting machine or device~~ station longer than is reasonably necessary to prepare ~~his~~ the elector's ballot, after which the election judges may eject ~~him~~ the elector from the station."

**Section 28.** Section 13-13-112, MCA, is amended to read:

**"13-13-112. Display of instructions for electors.** (1) ~~Instructions~~ Except as provided in subsection (3), instructions for electors on how to prepare their ballots or use ~~machines or devices~~ a voting system must be posted in each ~~compartment~~ 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 how to:

(a) obtain ballots for voting;

(b) prepare ballots ~~for deposit in the ballot box, 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; and

(c) obtain a new ballot in place of one spoiled by accident.

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

(4) Official ballots ~~for the precinct~~, clearly marked "sample" across the face, ~~shall~~ must be posted in at each ~~booth or compartment~~ voting station and in conspicuous places ~~about~~ around the polling place in ~~all precincts where paper ballots are used. Diagrams showing the arrangement of the ballot for that precinct shall~~

be posted in conspicuous places about the polling place in all precincts using machines or devices."

**Section 29.** Section 13-13-115, MCA, is amended to read:

**"13-13-115. ~~Pollbooks~~ Recording number of voters and ballots.** ~~(1) In precincts using paper ballots, the name of each elector who votes shall be entered in a pollbook and numbered in the order voting so that the number corresponds with the number on the stubs of the ballots given the elector or an election judge may use a numbering device to stamp the number of the ballot stub next to the name of the elector in a precinct register/pollbook.~~

~~———— (2) In precincts where machines or devices are used, a pollbook need be used only for paper ballots. The election administrator shall provide such precincts with some method of recording the number of individuals voting. The election administrator in each precinct shall use a precinct register, pollbook, or some other method to record the number of individuals voting and the number of ballots cast that conforms to the method prescribed by the secretary of state in accordance with rules adopted pursuant to 13-12-202."~~

**Section 30.** Section 13-13-116, MCA, is amended to read:

**"13-13-116. ~~Ballots~~ Paper ballots to be stamped marked -- one ballot to elector.** (1) Before delivering ~~ballots~~ a paper ballot to an elector, the election judges shall ~~stamp~~ ensure that the ballot is marked with the words "official ballot" ~~on the ballot. A without~~ part of the ~~stamp mark may not appear~~ appearing on the stub, if any. ~~They~~ The election judges shall also ~~stamp~~ 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 ~~shall~~ must receive from the election judges one of each type of ballot being used at the election."

**Section 31.** Section 13-13-117, MCA, is amended to read:

**"13-13-117. Method of voting.** (1) (a) Upon receipt of a paper ballot or, if a nonpaper ballot is used, after marking the precinct register pursuant to 13-13-115, an elector shall immediately retire to ~~one of the booths~~ a voting station and prepare the elector's ballot:

~~———— (2) The elector shall prepare the ballot in the manner prescribed in the instructions for electors provided pursuant to 13-13-112.~~

~~(3) The elector may vote for a write-in candidate by marking the ballot in a manner consistent with the instructions provided by the election administrator pursuant to 13-13-112. Except as provided in 13-15-202, a ballot marked for a write-in candidate in accordance with the appropriate instructions must be counted as if the name of the write-in candidate had been printed on the ballot.~~

(b) An elector who spoils the elector's ballot must be provided with another ballot in place of the spoiled ballot.

~~(4) The (2) (a) After the elector has completed voting, judge receiving the ballots shall remove the stubs in sight of the elector and deposit each ballot in the ballot box and each stub in a box for detached stubs. The the elector shall ensure the proper disposition of the elector's ballot in accordance with instructions provided pursuant to 13-13-112.~~

(b) If a paper ballot was cast, an election judge shall place the ballots ballot in the ballot box immediately without opening or examining them the ballot.

~~(5) No individual except Only an election judge may put a ballot, any paper resembling a ballot, or anything other than a ballot in a ballot box, and nothing other than a ballot may be put in a ballot box.~~

~~(6) An elector who spoils the elector's ballot must, on returning the spoiled ballot, receive another in place of it."~~

**Section 32.** Section 13-13-201, MCA, is amended to read:

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

(2) The elector may vote ~~the~~ absentee only by paper ballot and 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 ~~and verification~~ envelope;
- (d) executing the affidavit printed on the return ~~and verification~~ envelope; and
- (e) returning the return ~~and verification~~ envelope with the secrecy envelope containing the ballot or ballots enclosed, as provided in 13-13-224 all appropriate enclosures by regular mail, postage prepaid, or by delivering it to the election administrator of the special absentee election board."

**Section 33.** Section 13-13-203, MCA, is amended to read:

**"13-13-203. Absentee ballots where ~~voting machines or devices~~ nonpaper-based voting systems are used.** (1) In precincts where nonpaper-based ~~voting machines or devices~~ systems are used, the election administrator shall ~~if necessary print and~~ provide:

- (a) paper ballots in the official form specified according to rules adopted pursuant to 13-12-202 for qualified electors who may vote absentee as provided in 13-13-201; and
  - (b) ballot boxes required for ~~precincts in which printed ballots are used~~ each precinct.
- (2) Absentee ballots received in those precincts ~~shall~~ must be handled as provided ~~in this chapter~~ by law."

**Section 34.** Section 13-13-205, MCA, is amended to read:

**"13-13-205. When paper ballots to be available.** (1) The election administrator shall ensure that paper ballots are printed and available for absentee voting at least 45 days prior to an election for those elections held in compliance with 13-1-104(1) and 13-1-107(1).

(2) For elections held in compliance with 13-1-104(2) and (3) and 13-1-107(2), the election administrator shall ensure that paper ballots are printed and available for absentee voting at least 20 days prior to an election."

**Section 35.** Section 13-13-211, MCA, is amended to read:

**"13-13-211. Time period for application.** ~~An~~ (1) Except as provided in 13-13-222 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 noon on the day before the election.

(2) ~~However, a~~ 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(3)."

**Section 36.** Section 13-13-212, MCA, is amended to read:

**"13-13-212. Application for absentee ballot -- special provisions.** (1) An elector may apply for an absentee ballot by making a written request, signed by the applicant, to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(2) An elector in the United States service absent from the state and county in which the elector is



registered may apply for an absentee ballot as follows:

- (a) as provided in subsection (1);
  - (b) by using the federal postcard application signed by the applicant and made within the time period specified in 13-13-211; or
  - (c) if eligible, by using the federal write-in ballot as provided in 13-13-271(3).
- (3) (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 (3) must be received by the election administrator ~~by noon on election day~~ within the time period specified in 13-13-211(2).
- (4) 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."

**Section 37.** 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)(b) of this section, as soon as the official paper absentee ballots are printed, the election administrator shall immediately send by mail, postage prepaid, to each elector from whom the election administrator has received a valid application under 13-13-211 and 13-13-212 whatever official ballots are necessary. ~~Ballots must be sent immediately to electors submitting valid requests after the official ballots are printed.~~

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

(b) ~~a self-addressed~~ an envelope for the return of the ballots. ~~An~~ 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 ~~stamp~~ ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and remove the stubs from the ballots, attaching the stubs to the elector's absentee ballot application.

(4) ~~Both~~ If the ballot is being sent to an elector in the United States service, both the envelope in which the ballot is mailed ~~to an elector in the United States service~~ and the return envelope must have printed across the face the information and graphics and be of the color prescribed by the secretary of state consistent with the regulations established by the federal election commission, the U.S. postal service, or other federal agency.

(5) 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.

(6) 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 ~~and verification~~ 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;

(b) the elector is out of the state or will be out of the state at the time of the election; and

(c) the elector requests a voter information pamphlet.

~~(7) The return envelope must be self-addressed to the election administrator."~~

**Section 38.** 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 the an absentee ballot before election day before 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 ~~in the same manner as if it had come by mail~~ as provided in 13-13-231."

**Section 39.** Section 13-13-229, MCA, is amended to read:

**"13-13-229. Voting performed before special absentee election board.** (1) Pursuant to 13-13-212(3), the elector may request that a special absentee election board personally deliver a ballot to the elector.

(2) The manner and procedure of voting by use of an absentee ballot under this section must be the same as provided in ~~13-13-221~~ 13-13-201, except that the elector shall hand the marked ballot in the sealed return envelope to the special absentee election board, and the board shall deliver the sealed return envelope to the election administrator or to the election judges of the precinct in which the elector is registered.

(3) An absentee ballot cast by a qualified elector pursuant to this section may not be rejected by the election administrator if the ballot was in the possession of the board before the time designated for the closing of the polls.

(4) An elector who needs assistance in marking the elector's ballot because of physical incapacity or inability to read or write may receive assistance from the special absentee election board appointed to personally deliver the ballot. Any assistance given an elector pursuant to this section must be provided in substantially the same manner as required in 13-13-119."

**Section 40.** Section 13-13-231, MCA, is amended to read:

**"13-13-231. Disposition of marked ballot upon receipt by election administrator.** (1) Upon receipt of the voted absentee ballot, the election administrator shall immediately attach the elector's application to the unopened return envelope and mark the precinct number for delivery.

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

(3) If the election administrator receives an absentee ballot for which an application or request was not made or received as required by 13-13-211 through 13-13-214, the election administrator shall endorse upon the

elector's envelope the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must be handled as provided in 13-13-243."

**Section 41.** Section 13-13-232, MCA, is amended to read:

**"13-13-232. Delivery of voted absentee ballots, ~~secrecy envelopes~~, and ~~return envelopes~~ to election judges --~~ballots to be rejected~~.** (1) ~~If the~~ All voted absentee ballot ~~is received prior to delivery of ballots received and processed pursuant to 13-13-231 prior to the delivery of the official ballots to the election judges; the election administrator shall deliver the unopened return envelope to the judges at the same time that the ballots are delivered. The return envelopes must be opened and the ballots processed according to the procedures described in 13-13-244~~ must be delivered in their unopened return envelopes to the election judges at the same time that the official ballots are delivered.

(2) ~~If A~~ voted absentee ~~ballots are~~ ballot received and processed pursuant to 13-13-231 after the ballots ~~are have been~~ delivered to the election judges but prior to the close of the polls; ~~the election administrator shall immediately deliver the unopened return envelopes~~ must be immediately delivered in the ballot's unopened return envelope to the judges. ~~The return envelopes must be opened and the ballots processed according to the procedures described in 13-13-244.~~

~~——— (3) If the election administrator receives an absentee ballot for which an application or request was not made or received as required by this part, the election administrator shall endorse upon the elector's envelope the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must be retained by the election administrator and placed with the proper records when they are returned to the election administrator.~~

(3) Election judges shall process the absentee ballots as provided in 13-13-241."

**Section 42.** Section 13-13-233, MCA, is amended to read:

**"13-13-233. Issue and record of absentee ballots -- certificate to election judges.** (1) ~~The absentee~~ Absentee ballots ~~delivered shall~~ must be regular official numbered paper ballots beginning with ballot number 1 and following consecutively according to the number of applications for absentee ballots.

(2) The election administrator shall keep a record of all absentee ballots ~~delivered, as well as of ballots marked before him~~ issued.

(3) ~~The~~ When the election administrator ~~shall deliver to the chief election judges to whom the ballots are~~

~~delivered~~ delivers the voted absentee ballots pursuant to 13-13-232(1), the election administrator shall also provide a certificate stating:

(a) the ~~number~~ ballot numbers of the absentee ballots mailed pursuant to 13-13-214, delivered pursuant to 13-13-229, ~~as well as those~~, and marked ~~before him~~ in person pursuant to 13-13-222;

(b) the number of ballots ~~retained to be reserved~~ for late absentee voting pursuant to 13-13-211(2); and

(c) the names of the electors within the precinct to whom ~~such the~~ the ballots were ~~delivered or by whom they have been marked if marked before him~~ provided.

(4) The chief election judge shall post in a conspicuous location at the polling place a list of the names of electors appearing on the certificate required under subsection (3)."

**Section 43.** Section 13-13-234, MCA, is amended to read:

**"13-13-234. Duty of election judges -- pollbook.** (1) The election judges, at the opening of the polls, shall:

(a) note on the pollbook opposite the appropriate ballot numbers ~~corresponding to the number of absentee ballots issued~~ the fact that the ballots were issued as absentee ballots; and

(b) reserve the numbers for ~~the absent, chronically ill, or physically incapacitated electors, as well as those electors prevented from voting at the polls because of a sudden illness or health emergency~~ electors who may vote late under 13-13-211(2).

(2) The election judges shall insert only the name of the elector entitled to each particular number according to the certificate ~~of~~ provided by the election administrator pursuant to 13-13-233(3) and the number of ~~his~~ the elector's ballot."

**Section 44.** Section 13-13-241, MCA, is amended to read:

**"13-13-241. Examination of absentee ballot return envelopes and affirmations while polls open -- deposit of absentee and unvoted paper ballots.** (1) (a) While the polls are open or after the polls have closed, ~~the an~~ election judges ~~may judge shall~~ compare the signature of the elector on the absentee ballot ~~request application and the signature on the return envelope's~~ affirmation.

(b) If ~~they find~~ the election judge finds that the signatures correspond, that the affirmation is sufficient, and that the absentee elector is qualified, ~~they may open the absentee ballot return envelope~~ the judge shall process the ballot as provided in subsection (2).

~~(2)(c)~~ If the election judge finds that an absentee ballot does not meet the requirements specified in subsection (1)(b), ~~it the ballot~~ must be rejected. The election ~~judges~~ judge, without opening the absentee ballot return envelope, shall mark across it the reason for rejection and a majority of the judges shall sign their initials on the return envelope. Unopened rejected absentee ballot return envelopes must be handled in the same manner as provided for rejected ballots in 13-13-243.

~~(3)(2)~~ ~~After opening the~~ If an absentee ballot return envelope is found to be sufficient under subsection (1)(b), an election judge shall open the return envelope and, without opening the secrecy envelope, ~~they shall~~ place the secrecy envelope in the proper ballot box. ~~In a primary election, the unvoted ballots must be deposited in the unvoted ballot box without being removed from their enclosure envelopes.~~

~~———— (4) After opening the absentee ballot return envelope and if the~~ If the absentee ballot has not been placed in the secrecy envelope, without unfolding the ballot or otherwise permitting it to be examined, the election ~~judges~~ judge shall place the ballot in ~~the~~ a secrecy envelope and place the secrecy envelope in the proper ballot box.

(3) In a primary election in which paper ballots are used, an unvoted party ballot must be deposited in a ballot box for unvoted paper ballots without being removed from its enclosure envelope. If a party ballot has not been properly placed into an enclosure envelope, an election judge shall enclose the ballot in a proper envelope and deposit the ballot in the ballot box for unvoted party ballots."

**Section 45.** Section 13-13-244, MCA, is amended to read:

**"13-13-244. Opening of return envelopes after deposit.** If ~~an~~ a return envelope containing an absentee ballot has been deposited unopened in the ballot box and the envelope has not been marked rejected, the return envelope ~~shall~~ must be opened ~~without a court order and the ballot cast and processed as provided in 13-15-201.~~"

**Section 46.** Section 13-14-115, MCA, is amended to read:

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

~~(2) The number of nonpartisan primary ballots and sample ballots furnished must be the same as other~~

~~primary ballots:~~

~~————(3)(2)~~ (a) The election administrator of a political subdivision may determine that 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 ~~(3)(a)~~ (2)(a), the administrator shall give notice to the governing body that ~~no~~ a primary election will not be held.

~~(4)(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 47.** Section 13-14-116, MCA, is amended to read:

**"13-14-116. Counting and canvassing of nonpartisan ballots.** ~~(1) After closing the polls, the election officers shall separately count, canvass, record, and certify nonpartisan ballots, showing the number of votes cast for each person, except as provided in 13-15-202.~~

~~————(2) Nonpartisan ballots, stubs, and unused ballots must be disposed of in the same manner as other ballots, stubs, and unused ballots. Returns must be made as provided by law. Nonpartisan ballots must be counted and canvassed as provided for in chapter 15.~~

**Section 48.** 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~~(3)~~(2), a primary election is not held, then all candidates who filed for an office are nominees for the office."

**Section 49.** 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 a candidate is not able to run for the office for any reason, the vacancy ~~shall~~ 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 days before the general election, a 10-day period for accepting declarations for nomination or statements of candidacy and nominating petitions for the office ~~shall~~ 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) ~~shall~~ must be certified and ~~printed~~ 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 days before the general election and ~~no~~ a qualified individual is not elected to the office at the general election, the office ~~shall be~~ is vacant and ~~shall~~ must be filled as provided by law."

**Section 50.** Section 13-14-212, MCA, is amended to read:

**"13-14-212. Form of ballot on retention of certain incumbent judicial officers.** ~~In the event~~ If there is no candidate other than the incumbent for the office of chief justice, supreme court justice, district court judge, or justice of the peace, the name of the incumbent ~~shall~~ 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?

\_\_\_\_\_ ☐ YES

\_\_\_\_\_ ☐ NO

\_\_\_\_\_ ~~(Mark an "x" before the word "YES" if you wish the official to remain in office. Mark an "x" before the word "NO" if you do not wish the official to remain in office.)~~ 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 51.** Section 13-15-101, MCA, is amended to read:

**"13-15-101. Votes to be publicly counted ~~upon closing of polls -- return forms.~~** (1) ~~When the polls are closed, the election judges shall immediately count the votes. The~~ Any official vote count shall 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 one of the return forms at the place of counting and return a copy to the election administrator. Both forms ~~shall~~ must be signed by all the election judges completing the count."

**Section 52.** Section 13-15-103, MCA, is amended to read:

**"13-15-103. Counting board procedures.** (1) ~~In any precinct where a counting board has been appointed in addition to the regular board of election judges, After ballots have been prepared pursuant to 13-15-201, the election administrator may arrange for the vote count to begin prior to the close of the polls, or immediately upon the closure of the polls, in the manner prescribed in this section.~~

(2) (a) When a count is conducted after the polls have closed, the counting board shall meet at a place designated by the election administrator.

~~(2) The election administrator may provide duplicate boxes for voted ballots and duplicate pollbooks at any precinct for which a counting board has been appointed and may arrange for the counting board to begin the count of the votes cast before the polls close. The counting board shall~~

(b) The board must be sequestered in a separate room from where the ballots are being cast until after the polls close. Any individual observing the counting board procedures must be sequestered with the board until after the polls close. The counting board shall proceed by counting all ballots in the first box and then that box and pollbook shall be exchanged for the second box and duplicate pollbook. The until the count is complete.

(c) The board shall continue counting until the votes cast for all candidates and issues are counted. The election administrator may appoint an extra election judge to act as a marshal to be responsible for exchanging ballot boxes and pollbooks and enforcing sequestering of the board and observers

(d) Votes must be counted as prescribed in [section 2].

~~(3) The election administrator may have the counting board for a precinct begin work as soon as the polls close instead of using the procedure outlined in subsection (2).~~

~~(4) In a county where voting devices are used, When votes are counted prior to the close of the polls:~~

(a) the election administrator may shall make provisions for the delivery of voted ballots to the counting

center at any time prior to the closing of the polls. ~~The:~~

(b) the board must be sequestered in a room separate from the room where ballots are being cast;

(c) anyone observing the count must be sequestered with the board until the polls close;

(d) the ballots may be processed and counted as they are received, but the results of this early count may not be released to the public until after all the polls are closed;

~~(5) No~~ (e) an election judge or other individual having access to the information early count results may not disclose any results of early counting that information to the public while the polls are open; and

(f) votes must be counted as prescribed in [section 2].

(4) (a) When votes are being counted prior to the close of the polls, in addition to the official oath taken and subscribed to by the election judges, the members of the counting board shall complete and sign the following affirmation: "I, ....., will not discuss the results of the early counting of votes while the polls are open."

(b) The chief election judge shall witness and sign the affirmation in subsection (4)(a)."

**Section 53.** Section 13-15-104, MCA, is amended to read:

**"13-15-104. Counting Absentee ballot counting board for absentee ballots.** (1) The election administrator shall:

(a) give special instructions to any ~~counting board for absentee ballots~~ ballot counting board appointed under ~~13-4-104~~ [section 1] on the proper procedures for counting the absentee ballots; and

(b) provide the forms and supplies necessary for the board to perform its duties.

(2) The ~~counting board for absentee ballots~~ ballot counting board shall:

(a) be sequestered in a room separate from where ballots are being cast;

(b) at any time prior to the closing of the polls but not before the polls open, start the count of the absentee votes cast; and

(c) follow the procedures outlined in 13-13-241 and 13-15-103 for the counting of the votes cast.

(3) ~~No~~ An election judge or other individual having access to any results of early counting may not disclose the information while the polls are open; and ~~he~~ must remain sequestered until the closing of the polls.

(4) ~~(a) In addition to the official oath taken and subscribed to by the election judges, the members of the counting board for absentee ballots shall complete and sign the following affirmation: "I, ....., will not discuss or disclose or allow anyone else to discuss or disclose to anyone the results of the early counting of votes while the polls are open."~~

~~\_\_\_\_\_ (b) The chief election judge shall witness and sign the affirmation~~ The absentee ballot counting board shall take the oath and sign the affirmation specified in 13-15-103(4)."

**Section 54.** Section 13-15-105, MCA, is amended to read:

**"13-15-105. Notices relating to absentee ballot counting board ~~for absentee ballots~~.** (1) Whenever ~~a an absentee ballot~~ counting board ~~for absentee ballots~~ is appointed under ~~13-4-104~~ [section 1], the election administrator shall:

~~(1)(a)~~ (a) publish in the contracted newspaper of the county as provided in 7-5-2411 a notice indicating ~~that~~ such a the method that will be used for counting absentee ballots; and

~~(2)(b)~~ (b) post in a conspicuous location at the office of the election administrator, by 5 p.m. of the day before an election, a notice that indicates the place and time that the counting board for absentee ballots will meet on election day.

~~(2) The~~ If the count will begin while the polls are open, the notice required under subsection (1) must inform the public that any person observing the procedures of the counting board must be sequestered with the board until the polls are closed and ~~the counting board is released and must~~ is required to take the oath provided in ~~13-15-104~~ 13-15-103(4)."

**Section 55.** Section 13-15-201, MCA, is amended to read:

**"13-15-201. Preparation for count.** (1) ~~(a) To begin the~~ (a) Subject to 13-10-311, to prepare for a manual or automatic count of paper ballots before or after the close of the polls, the counting board of election judges designated under [section 1] shall take ballots out of the box unopened to determine whether each ballot is single.  
~~The election judges~~

(b) If an absentee ballot counting board has been appointed pursuant to [section 1], the absentee ballots must be delivered to the absentee ballot counting board and counted as provided in 13-15-104. If an absentee ballot counting board has not been appointed, the regular counting board shall, subject to 13-13-244, remove each absentee ballot secrecy envelope and open it to determine whether the ballot for each election is single. A ballot An absentee ballot must be rejected if in the envelope there is more than one voted ballot for each election.

~~(2) They~~ (c) The counting board shall count the all ballots to ensure that the total number of ballots corresponds with the total number of names ~~on~~ in the pollbook.

~~(3)(d)~~ If ~~they~~ the counting board cannot reconcile the total number of ballots with the pollbook, ~~they~~ the board shall submit to the election administrator a written report stating how many ballots were missing or in excess and any reason of which they are aware for the discrepancy. ~~All judges~~ Each judge on the board shall sign the report.

~~(4)(e)~~ A ballot that is not ~~endorsed by the~~ marked as official ~~stamp~~ is void and may not be counted unless ~~the all judges on the counting board~~ agree that the ~~stamp marking~~ is missing because of ~~their an~~ error. ~~The by~~ election officials, in which case the ballot must be marked "~~unstamped~~ unmarked by error" on the back and must be initialed by all judges.

~~(5)(f)~~ If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. ~~The election judges~~ counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were voted by one elector, ~~they~~ the ballots must be rejected; otherwise they must be counted.

(2) For nonpaper ballots, the counting board shall prepare for the official count in a manner prescribed by the secretary of state pursuant to [section 3]."

**Section 56.** Section 13-16-201, MCA, is amended to read:

**"13-16-201. Conditions under which recount to be made conducted.** ~~(1) A recount shall be made under any of the following conditions~~ must be conducted if:

~~(1)(a)~~ If a candidate for a county, municipal, or district office voted for in only one county, other than a legislator or a judge of the district court, or a precinct office 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, ~~he may~~ and the defeated candidate, within 5 days after the official canvass, ~~file files~~ with the election administrator a verified petition stating ~~he 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 ~~had~~ conducted;

~~(2)(b)~~ If 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, ~~he may~~ and the defeated candidate, within 5 days after the official canvass, ~~file files~~ a petition with the secretary of state as set forth in subsection ~~(1)(1)(a)~~. The secretary of state shall immediately notify by certified mail each election administrator whose county includes any precincts ~~which~~ that voted for the ~~same office by certified or registered mail~~, and a recount ~~shall~~ must be conducted in those

precincts.

~~(3)(c)~~ If 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 ~~(4) may be~~ (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.

~~(4)(d)~~ If 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 ~~(4) may be~~ (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.

~~(5)(e)~~ If 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 ~~(4) may be~~ (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) if a canvassing board petitions for a recount as provided in 13-15-403.

~~(6) The (2)~~ 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 ~~shall~~ must be conducted in all precincts in each affected county.

~~(7) If during a canvass of election returns a board of county canvassers finds an error, as provided in 13-15-403, the board immediately may file a petition with the election administrator."~~

**Section 57.** Section 13-16-303, MCA, is amended to read:

**"13-16-303. Presumption of incorrectness from failure to comply with provisions for counting votes.** If it appears from a verified application that the election judges failed to comply with the provisions of 13-15-202 [section 2], that is sufficient cause for believing that the election judges did not correctly ascertain the number of votes cast for the applicant or ballot issue."

**Section 58.** Section 13-16-411, MCA, is amended to read:

**"13-16-411. Individuals entitled to appear at recount --opening and recount of ballots.** (1) Representatives of the news media may be present at the recount. The recount ~~shall~~ must be public, but the audience may be limited to prevent interference with the procedures.

(2) Each candidate involved in a recount may appear, personally or by representative, and ~~shall~~ must have full opportunity to witness the ~~opening of all ballot boxes and the count of all ballots~~ entire recount process.

(3) If the recount is ~~upon~~ on a ballot issue, one qualified elector favoring each side of the question may be present ~~and represent his side~~.

~~————(4) The recount shall proceed as provided in 13-16-412 and as expeditiously as possible until completed."~~

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

**"13-16-412. Procedure for recounting paper ballots.** ~~The county recount board in recounting the ballots shall count, at the same time, the votes cast in the precincts in which a recount is ordered for the several candidates in whose behalf a recount is ordered in the following manner:~~

~~————(1) The~~ To conduct a recount of paper ballots:

(a) the election administrator shall ~~produce~~ 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~~ (b) a member of the ~~county~~ recount board shall open each sealed package or envelope and remove the ballots, and the board shall count the votes on each ballot in the manner provided in [section 2(2)]; and:

~~————(3) One of the members of the board shall read each ballot aloud. As the ballots are read, two clerks shall write the votes cast for each individual in each precinct, at full length,~~

(c) the recount must be tallied on previously prepared tally sheets. The tally sheets ~~shall~~ 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.

(2) To prepare for a recount of ballots cast using a nonpaper-based voting system, the election administrator and election judges shall proceed as provided in rules adopted pursuant to [section 3] and the recount board shall conduct the recount as provided in 13-16-414."

**Section 60.** Section 13-16-414, MCA, is amended to read:

**"13-16-414. Recount of votes cast by voting devices using voting system.** (1) ~~The~~ (a) Before a voting system may be used to automatically recount votes, the recount board shall test the automatic tabulating

equipment ~~used for votes cast by voting devices~~ in accordance with rules adopted pursuant to [section 3].

(b) If the test does not show any errors, the votes cast for the candidates or on the issues for which a recount is ordered ~~shall~~ must be recounted by the tabulating equipment as provided in [section 2(3)].

~~(2)(c)~~ (i) If any errors are found in the test or if any questions remain as to the accuracy of the ~~count~~ voting system, the board ~~may~~ shall have the ~~program and equipment system~~ checked by a qualified individual who did not participate in the original preparation of the program and equipment system.

(ii) If the errors are corrected, the recount must proceed as provided in [section 2(3)].

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

~~(3)(2)~~ The board may ~~also order manual counting of the votes cast~~ a recount, which must be conducted as provided in subsection (3), if they believe it the board unanimously agrees that a recount is necessary to resolve all questions relating to the election.

~~(4) The board may remove the seals from any voting device and check the ballot on the device with the official certification of the ballot arrangement for each precinct.~~

~~— (5) Any paper ballots voted in a precinct shall be recounted as prescribed in 13-16-412.~~

~~— (6) Write-in votes shall be recounted in the same manner as the count is made after the closing of the polls.~~

(3) (a) A recount of paper ballots under this subsection (3) must be conducted manually as provided in [section 2(2)].

(b) A recount of ballots cast using a nonpaper-based system must be conducted as provided in rules adopted under [section 3]."

**Section 61.** Section 13-16-417, MCA, is amended to read:

**"13-16-417. Sealing ballots, machines, or devices and voting systems.** (1) When ~~the a~~ a recount in ~~a precinct of paper ballots that was conducted using a voting system~~ has been finished, each ballot ~~shall~~ must again be sealed in the same package or envelope in the presence of the election administrator and the county recount board and ~~shall~~ must be delivered to the election administrator for custody.

(2) All voting ~~machines or devices from which seals have been removed shall be resealed in the presence of the election administrator and the recount board and shall be delivered to the election administrator for custody~~ systems must be secured as provided in rules adopted under [section 3].

(3) All other materials used in the recount that are required to be sealed ~~shall~~ must be resealed in the

same manner and delivered to the election administrator for custody."

**Section 62.** Section 13-16-420, MCA, is amended to read:

**"13-16-420. Misplaced or missing paper ballots.** If during a recount the county recount board discovers that ballots are misplaced or missing, it may petition the election administrator to inspect all sealed paper ballots within the county precincts to find the misplaced or missing ballots. Upon receiving the petition, the election administrator shall inspect the sealed ballots to find the misplaced or missing ballots. Upon completion of the recount, the misplaced or missing ballots must be placed in their proper precinct and sealed with the remaining ballots."

**Section 63.** Section 13-17-101, MCA, is amended to read:

**"13-17-101. Secretary of state to approve voting machines and devices systems.** (1) ~~Before any~~ A voting machine or device can ~~system may not~~ be used for any election in this state; unless the system is approved by the secretary of state as provided in this section.

(2) The secretary of state shall:

(a) ~~examine the machine or device~~ a voting system proposed for use to determine if it complies with the requirements of ~~this chapter~~ 13-17-103;

(b) within 30 days after examining ~~a machine or device~~ the voting system, file a report of the examination in ~~his~~ the secretary of state's office;

(c) include in the report the reasons for the voting system's approval or disapproval ~~of the use of the machine or device~~ and ~~his~~ the secretary of state's opinion ~~of about~~ the economic and procedural impact ~~of that~~ the voting system's use or nonuse ~~of the machine or device by~~ may have on the various classes of counties of this state; and

(d) within 5 days after filing the report, transmit to ~~the each~~ each election administrator, including school election administrators for elections under Title 20, chapter 20, ~~of each county~~ a copy of the report.

~~(2)(3)~~ (3) Voting ~~machines and devices~~ systems may not be used in an election unless approved by the secretary of state 60 days or more prior to the election at which they will be used."

**Section 64.** Section 13-17-102, MCA, is amended to read:

**"13-17-102. Use of qualified technicians and ~~advisors~~ advisers.** (1) ~~The~~ To the extent that funds are



~~available, the secretary of state may employ and compensate qualified technicians and advisors who are electors of this state~~ advisers to assist him in carrying out the secretary of state's duties required by 13-17-101. ~~Advisors who are public officers or employees shall serve without additional compensation other than expenses of attending the examination if the examination takes place during their regular working hours.~~

(2) ~~The person or company~~ An entity submitting a ~~machine or device~~ voting system for examination shall pay ~~the compensation and expenses of technicians and advisors connected with the examination~~ to the secretary of state for deposit in the state general fund certain costs connected with the examination based on an agreement reached between the two parties. ~~The secretary of state and the person or company shall reach agreement on the number of technicians and advisors to be compensated before the examination is held."~~

**Section 65.** Section 13-17-103, MCA, is amended to read:

**"13-17-103. Required specifications for equipment voting systems.** (1) ~~A voting machine or device system~~ may not be approved under 13-17-101 unless the voting system:

~~(4)(a)~~ allows an elector ~~can to~~ vote in secrecy;

~~(2)(b)~~ prevents an elector ~~is prevented~~ from voting for any candidate or ~~upon on~~ any ballot issue more than once ~~and is also prevented from~~;

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

~~(3)(d)~~ an elector can secretly select the party for which he wishes to vote in a primary election and the machine or device will count only votes allows an elector to vote only for the candidates of ~~that~~ the party selected by the elector in the primary election;

~~(4)(e)~~ allows an elector ~~can to~~ vote a split ticket in a general election if ~~he~~ the elector desires;

~~(5) every~~ (f) allows each valid vote cast ~~is to be~~ registered and recorded within the performance standards adopted pursuant to subsection (2);

~~(6)(g)~~ the machine or device is constructed so that it cannot be tampered with for a fraudulent purpose and is also constructed so that during the progress of the voting no may be protected from tampering for a fraudulent purpose;

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

~~(7)(i)~~ it allows write-in voting; and

~~(6)(j)~~ will, if purchased by a jurisdiction within the state, be provided with a guarantee ~~to provide that the~~ training and technical assistance will be provided to election officials ~~is included in each~~ under the contract for purchase of the ~~machine or device voting system~~.

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

**Section 66.** Section 13-17-104, MCA, is amended to read:

**"13-17-104. Providing voting machines or devices systems -- payment.** (1) The county governing body may, as practicable, provide for the use of any approved voting machines or devices as practicable system approved pursuant to 13-17-101.

(2) Funds for voting ~~machines or devices~~ systems may be provided by the same methods available for other capital equipment purchases by the county.

(3) The governing body of a county may put the question of purchasing voting ~~machines or devices~~ systems or the question of which type of voting ~~machine or device~~ system to purchase to the registered electors of the county by the same method that any other question is referred to the electors.

(4) A county governing body may, in the manner provided in rules adopted under 13-17-107, submit a voting system for consideration under 13-17-101."

**Section 67.** Section 13-17-105, MCA, is amended to read:

**"13-17-105. Experimental use of machines or devices voting systems.** The governing body of a county may, without adoption or purchase of the voting system, provide for the experimental use in one or more precincts at an election of a voting ~~machine or device~~ system that has been approved by the secretary of state ~~in one or more precincts without a formal adoption or purchase of the machine or device under 13-17-101. Its~~ The voting system's use at the election is valid for all purposes as if the ~~equipment~~ system had been formally adopted or purchased by the county."

**Section 68.** Section 13-17-106, MCA, is amended to read:

**"13-17-106. General application of election laws to apply.** All laws applicable to elections ~~where~~ when

voting is not done by ~~machine or device~~ using a voting system and all penalties prescribed for violations of those laws apply to elections and precincts ~~where~~ when voting ~~machines or devices~~ systems are used if ~~they~~ those laws are not in conflict with the provisions of this chapter."

**Section 69.** Section 13-17-107, MCA, is amended to read:

**"13-17-107. Secretary of state to prescribe rules.** (1) The secretary of state may prescribe rules for the submission of voting ~~machines and devices~~ systems for examination and additional requirements for approval of ~~machines and devices~~ voting systems.

(2) The secretary of state shall prescribe rules for the complete procedures necessary to use each type of voting ~~machine or device~~ system now approved for use in this state and for each type of ~~machine or device~~ system approved for use under the provisions of this chapter."

**Section 70.** Section 13-17-201, MCA, is amended to read:

**"13-17-201. Election administrator to instruct election judges.** (1) Before each election in which a voting system is used, the election administrator shall instruct all election judges in the use of the ~~machines or devices~~. ~~He shall give to each election judge who has received instruction and is fully qualified to conduct an election with the machine a certificate to that effect~~ system as provided in 13-4-203.

(2) A chief election judge may not serve in a precinct where a voting ~~machines or devices are~~ system is used unless ~~he~~ the judge has received the required instruction, is fully qualified to perform duties in connection with the ~~machine or device~~ system, and has received a certificate to that effect from the election administrator."

**Section 71.** Section 13-17-203, MCA, is amended to read:

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

- (1) a diagram showing the voting ~~machine or device~~ system and ballot arrangement (in newspaper only);
- (2) a statement of the locations where voting ~~machines or devices~~ systems are on public exhibition;
- (3) ~~illustrated~~ instructions on how to vote."

**Section 72.** Section 13-17-204, MCA, is amended to read:

**"13-17-204. Voting ~~machines or devices~~ systems to be exhibited.** A voting ~~machine or device~~ system ~~shall~~ must be on exhibition in the office of the election administrator of ~~counties~~ any county where ~~such equipment~~ the voting system is used and may be exhibited at other locations. The election administrator shall demonstrate the voting ~~machine or device~~ system to any inquiring elector."

**Section 73.** Section 13-17-206, MCA, is amended to read:

**"13-17-206. Arrangement of machine ballot voting system ballot.** The order and arrangement of ballots to be used with voting ~~machines or devices~~ systems ~~shall~~ must be the same as paper ballots insofar as possible and ~~shall~~ must be prescribed by the secretary of state ~~before each election~~ in accordance with rules adopted pursuant to 13-12-202."

**Section 74.** Section 13-17-305, MCA, is amended to read:

**"13-17-305. Request to use paper ballots.** (1) ~~(a) Where voting machines are~~ When a nonpaper-based voting system is used, an elector may request to vote by paper ballot instead of using the ~~machine~~ system. The election judges shall provide the elector with a paper ballot when requested.

~~(b) Where voting devices are used, the election administrator, with approval of the governing body of the county if the election administrator is an appointed official, may provide paper ballots if the election administrator believes such ballots are necessary. However, if more than 5% of the electors voting in the last preceding general election voted using paper ballots, the election administrator shall provide paper ballots.~~

(2) The printing of paper ballots provided pursuant to this ~~subsection~~ section is an allowable election cost under the provisions of 13-1-302.

~~(2)(3) Paper ballots shall~~ A paper ballot provided pursuant to this section must be cast according to proper instructions and counted by the election judges in the manner provided ~~by law~~ in [section 2].

~~—— (3) For the purposes of this section, "voting machine" means a mechanical apparatus which is used for voting by using levers which provide a tabulating system within the machine."~~

**Section 75.** Section 13-17-306, MCA, is amended to read:

**"13-17-306. Use of separate paper ballots for voting on certain candidates or issues.** ~~Whenever~~ Subject to 13-12-202, whenever a voting ~~machine or device~~ system ~~does not allow proper lockout or~~ does not

allow adequate space for ~~the~~ all candidates for all offices or for all ballot issues, separate paper ballots may be used for some or all offices or ballot issues if written authorization is given to the election administrator by the secretary of state."

**Section 76.** Section 13-19-106, MCA, is amended to read:

**"13-19-106. General requirements for mail ballot election -- exception for county building code jurisdiction election.** A mail ballot election must be conducted substantially as follows:

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

(2) (a) Except as provided in subsection (2)(b), an official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

(b) In an election to determine whether to adopt a building code enforcement program within a county jurisdictional area, as defined in 50-60-101 and designated by a board of county commissioners pursuant to 50-60-310, an official ballot must be mailed to every record owner of real property in the county jurisdictional area.

(3) Each return/verification 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 ~~at home~~ and place it in a secrecy envelope.

(5) The elector shall then place the secrecy envelope containing the elector's ballot in a return/verification envelope and shall return it by mailing it or delivering it in person to a place of deposit designated by the election administrator so that it is received before a specified time on election day.

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

(7) If the ballot qualifies and is otherwise valid, officials shall then open the return/verification envelope and remove the secrecy envelope, which is then voted by depositing it unopened in an official ballot box.

(8) After the close of polls on election day, voted ballots must be counted and canvassed as ~~otherwise~~ provided ~~by law~~ in chapter 15."

**Section 77.** 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 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 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 ~~a~~ the validity of a particular ballot, the ~~election administrator may not deposit the ballot in question. The election administrator shall retain all materials relating to the questioned ballot until the question is~~ must be resolved ~~satisfactorily or the question is determined as~~ provided in 13-19-314."

**Section 78.** Section 13-19-312, MCA, is amended to read:

**"13-19-312. ~~Procedure at close of voting~~ Counting procedure.** (1) ~~After~~ Except as provided in subsection (2), after the close of voting on election day, ~~election officials~~ the counting board appointed pursuant to [section 1] shall:

- (a) open the official ballot boxes;
- (b) open each secrecy envelope, removing the ballot; and
- (c) proceed to count the votes as ~~otherwise provided by law~~ in chapter 15.

(2) On election day, the election administrator may begin the procedures described in subsection (1) before the polls close if ~~he~~ the election administrator complies with the procedures described in 13-15-103(3)."

**Section 79.** Section 13-19-314, MCA, is amended to read:

**"13-19-314. Resolving ~~issues~~ ballots in question.** Any questions concerning the validity of a ballot or signature must be resolved in the following manner:

(1) If the election administrator is unable to ~~resolve the issue to his satisfaction~~ determine without doubt whether a ballot is valid or invalid, ~~he~~ the election administrator shall give notice to the elector as provided in 13-19-313.

(2) ~~If the elector fails to appear or, if even after such an appearance, the issue is still not resolved to, subsequent to following the procedure in 13-19-313, the election administrator's satisfaction, the election administrator is still unable to determine without doubt whether the ballot is valid or invalid, the election administrator shall present the issue for a determination to the counting board of judges appointed pursuant to [section 1] to count the ballots.~~

(3) ~~If a majority of the counting board is unable to resolve the issue to its satisfaction agree on whether the ballot is valid or invalid, it may not count the ballot in question. Instead, and the election administrator shall present the issue ballot to the board of canvassers for a determination of the issue.~~

(4) ~~If a majority of the board of canvassers is unable to resolve the issue agree that the ballot is valid, the ballot is invalid and must may not be counted."~~

**Section 80.** Section 13-25-101, MCA, is amended to read:

**"13-25-101. Nomination of electors -- ballot.** (1) Each political party qualified under 13-10-601 shall nominate presidential electors for this state and file certificates of nomination for these candidates with the secretary of state in a form prescribed by the secretary of state no later than 76 days before the general election, in the manner and number provided by law. However, in the event of the death of a candidate for president or vice president, a new candidate for president or vice president, or both, may be nominated for the affected political party and certificates of election may be filed with the secretary of state less than 76 days before a general election.

(2) 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. 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) ~~The names of candidates for electors of president and vice president may not be printed upon appear on the ballot."~~

**Section 81.** Section 13-27-501, MCA, is amended to read:

**"13-27-501. Secretary of state to certify ballot form -- abbreviated ballot.** (1) The secretary of state

shall furnish to the official of each county responsible for preparation and printing of the ballots, at the same time as ~~he~~ the election administrator certifies the names of the persons who are candidates for offices to be filled at the election, a certified copy of the form in which each ballot issue to be voted on by the people at that election is to appear on the ballot.

(2) Except as provided in subsection (4), the secretary of state shall list for each issue:

- (a) the number;
- (b) the method of placement on the ballot;
- (c) the title;
- (d) the attorney general's explanatory statement, if applicable;
- (e) the fiscal statement, if applicable; and
- (f) the statements of the implication of a vote for or against the issue that are to be placed beside the diagram for marking the ballot.

(3) When required to do so, the secretary of state shall use for each ballot issue the title of the legislative act or legislative constitutional proposal or the title provided by the attorney general or district court. Following the number of the ballot issue, the secretary of state, when required to do so, shall include one of the following statements to identify why the issue has been placed on the ballot:

- (a) an act referred by the legislature;
- (b) an amendment to the constitution proposed by the legislature;
- (c) an act of the legislature referred by referendum petition; or
- (d) a law or constitutional amendment proposed by initiative petition.

(4) The county election administrator may, at least 14 days prior to the deadline for ballot certification by the secretary of state, request in writing that ~~he~~ the county election administrator be furnished an abbreviated form of the certified ballot. The secretary of state shall furnish to all counties from which ~~he~~ the secretary of state has received such a request a certified ballot containing only the information in subsections (2)(a), (2)(e), and (2)(f). If the county election administrator requests that the abbreviated ballot be prepared, copies of the information contained in subsections (2)(a) through (2)(f) must be distributed to each elector by an election judge as the elector enters the polling place."

**Section 82.** Section 13-27-502, MCA, is amended to read:

**"13-27-502. Preparation of ballots by county officials with ballot issues.** (1) Each of the county



officials responsible for the preparation ~~and printing~~ of the ballots shall ~~print~~ provide for the ballot issues to appear on the official ballot in the form and order in which the issues have been certified by the secretary of state.

(2) All ballot issues ~~shall~~ must be placed on the same official ballot ~~prescribed by 13-12-207, 13-12-212, and 13-17-206~~ as the candidates unless the secretary of state provides the election administrator with specific written approval by the secretary of state for placing the ballot issues on a for separate ballot ~~is received by the official responsible for printing the ballot ballots~~. The secretary of state may issue ~~such an~~ an approval only when the number of issues to be voted on at an election makes it impractical to print the entire ballot, including the ballot issues, on the same official ballot as ~~prescribed by 13-12-207, 13-12-212, and 13-17-206~~ the candidates."

**Section 83.** Section 13-35-202, MCA, is amended to read:

**"13-35-202. Conduct of election officials and election judges.** An election officer or judge of an election may not:

- (1) deposit in a ballot box a paper ballot ~~on which the~~ that is not marked as official stamp, ~~as provided by law, does not appear;~~
- (2) ~~prior to~~ examine an elector's ballot before putting the ballot of an elector in the ballot box; ~~attempt to find out any name on the ballot or open or examine the folded ballot of an elector;~~
- (3) look at any mark made by the elector upon the ballot;
- (4) make or place any mark or device on any ~~folded~~ ballot with the intent to ascertain how the elector has voted;
- (5) allow any individual other than the elector to be present at the marking of the ballot except as provided in 13-13-118 and 13-13-119; or
- (6) make a false statement in a certificate regarding affirmation."

**Section 84.** Section 13-35-205, MCA, is amended to read:

**"13-35-205. Tampering with election records and information.** A person is guilty of tampering with public records or information and is punishable as provided in 45-7-208 whenever the person:

- (1) suppresses any declaration or certificate of nomination ~~which~~ that has been filed;
- (2) purposely causes ~~the a~~ a vote ~~on a machine~~ to be incorrectly recorded as to the candidate or ballot issue voted on;
- (3) in an election return, knowingly adds to or subtracts from the votes actually cast at the election;

- (4) changes any ballot after ~~the same it~~ has been deposited in the ballot box or completed by the elector;
  - (5) adds ~~any a~~ ballot to those legally polled at an election, either before or after the ballots have been counted, with the purpose of changing the result of the election;
  - (5)(6) causes ~~any a~~ name to be placed on the registry lists other than in the manner provided by this title;
- or
- (6)(7) changes a poll list or checklist."

**Section 85.** Section 13-35-206, MCA, is amended to read:

**"13-35-206. Injury to election equipment, materials, and records.** A person is guilty of criminal mischief or tampering with public records and information, as appropriate, and is punishable as provided in 45-6-101 or 45-7-208, as applicable, whenever the person:

- (1) prior to or on election day, knowingly defaces or destroys any list of candidates posted in accordance with the provisions of the law;
- (2) during an election:
  - (a) removes or defaces ~~the cards printed for the instruction of~~ instructions for the voters; or
  - (b) removes or destroys any of the supplies or other conveniences placed in the ~~booths or compartments~~ voting station for the purpose of enabling a voter to prepare ~~his the voter's~~ ballot;
- (3) removes any ballots from the polling place before the closing of the polls with the purpose of changing the result of the election;
- (4) carries away or destroys any poll lists, checklists, ballots, ~~or~~ ballot boxes, or other equipment for the purpose of disrupting or invalidating an election;
- (5) knowingly detains, mutilates, alters, or destroys any election returns;
- (6) mutilates, secretes, destroys, or alters election records, except as provided by law;
- (7) tampers with, disarranges, defaces, injures, or impairs a voting ~~machine~~ system with the intent to alter the outcome of an election;
- (8) mutilates, injures, or destroys ~~any a~~ ballot or appliance used in connection with a voting ~~machine~~ system; or
- (9) fraudulently defaces or destroys a declaration or certificate of nomination."

**Section 86.** Section 13-37-126, MCA, is amended to read:

**"13-37-126. Names not to be printed appear on ballot.** (1) The name of a candidate may not ~~be printed appear~~ on the official ballot for an election if the candidate or a treasurer for a candidate fails to file any statement or report as required by this chapter.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner shall, by a written statement, notify the secretary of state or the election administrator that a candidate or a candidate's treasurer has not complied with the provisions of this chapter, as described in subsection (1), and that a candidate's name should not ~~be printed appear~~ on the official ballot. The commissioner shall provide this notification by the ballot certification deadline provided in 13-10-208 for primary elections and by no later than 7 days before the ballot certification deadline provided in 13-12-201 for general elections."

**Section 87.** Section 13-37-250, MCA, is amended to read:

**"13-37-250. Voluntary spending limits.** (1) (a) The following statement may be used in printed matter and in broadcast advertisements and may appear in the voter information pamphlet prepared by the secretary of state: "According to the Office of the Commissioner of Political Practices, ..... is in compliance with the voluntary expenditure limits established under Montana law."

(b) The treasurer of each political committee, as defined in 13-1-101(49)(b), who files a certification on a ballot issue pursuant to 13-37-201 may also file with the commissioner a sworn statement that the committee will not exceed the voluntary expenditure limits of this section. If a sworn statement is made, it must be filed with the commissioner within 30 days of the certification of the political committee.

(c) A political committee that has not filed a sworn statement with the commissioner may not distribute any printed matter or pay for any broadcast claiming to be in compliance with the voluntary expenditure limits of this section.

(d) A political committee may not use evidence of compliance with the voluntary expenditure limits of this section to imply to the public that the committee has received endorsement or approval by the state of Montana.

(2) For the purposes of this section, the expenditures made by a political committee consist of the aggregate total of the following during the calendar year:

- (a) all committee loans or expenditures made by check or cash; and
- (b) the dollar value of all in-kind contributions made or received by the committee.

(3) In order to be identified as a political committee in compliance with the voluntary expenditure limits of this section, the committee's expenditures, as described in subsection (2), may not exceed \$150,000.

(4) A political committee that files with the commissioner a sworn statement to abide by the voluntary expenditure limits of this section but that exceeds those limits shall pay a fine of \$5,000 to the commissioner. This money must be deposited in a separate fund to be used to support the enforcement programs of the office of the commissioner."

**Section 88.** Section 13-38-201, MCA, is amended to read:

**"13-38-201. Election of committeemen at primary.** (1) Each political party shall elect at each primary election one man and one woman ~~who shall~~ to serve as committeemen for each election precinct. The committeemen ~~shall~~ must be residents and registered voters of the precinct.

(2) An elector may be placed in nomination for committeeman by a writing so stating, 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) The names of candidates for precinct committeeman of each political party ~~shall be printed~~ must appear on the party ticket in the same manner as other candidates and ~~the voter shall vote~~ are voted for them in the same manner as ~~he does for~~ other candidates."

**Section 89.** Section 20-20-421, MCA, is amended to read:

**"20-20-421. Voting machines and electronic voting systems.** Whenever a voting machines or electronic voting systems are ~~system, as defined in 13-1-101, is available to a district, such the voting devices system~~ may be used for a school election. Any district that uses a if the voting machine or an electronic voting system shall do so in accordance has been approved pursuant to 13-17-101 and if the election administrator complies with the provisions of ~~chapter 17 of Title 13, chapter 17.~~ In construing the provisions of that chapter, the "county governing body" and the "election administrator" ~~shall be~~ are, for the purposes of this section, ~~be~~ considered to refer to trustees and "county" ~~shall be~~ is considered to refer to district."

**Section 90.** Section 76-15-303, MCA, is amended to read:

**"76-15-303. General election -- election by acclamation -- appointment.** (1) All qualified electors within the district are eligible to vote in the election.

(2) Except as provided in subsection (5), the candidate or, if more than one supervisor position is to be filled by the general election, the candidates who receive the largest number, respectively, of the votes cast in the election are the elected supervisors for the district.

(3) In the general election, the names of the individuals nominated must be ~~printed, as provided under arranged on ballots as prescribed in 13-12-205, upon ballots, with a square before each name and a direction to insert an "X" mark in the square before any three names to indicate the elector's preference.~~

(4) The election administrator in each county shall prepare suitable nonpartisan ballots or place the names of candidates on the regular general election ballot in the same manner as other nonpartisan candidates for the election of supervisors. The ballots must be delivered to the election judges in those precincts that contain registered electors prior to each general election and each primary election, if necessary. The election judges and other election officials in the precincts shall submit the ballots to qualified electors, conduct the election, and tabulate the results of the election in the manner provided in Title 13.

(5) (a) Except as provided in subsection (5)(b), if the number of candidates nominated is equal to or less than the number of positions to be elected, the election administrator shall give notice that an election will not be held.

(b) The governing body may require that an election be held if, not more than 10 days after the close of filing by candidates, the governing body passes a resolution to hold an election and notifies the election administrator.

(c) If an election is not held, the governing body shall declare elected by acclamation the candidate who filed a nominating petition for the position. If no candidate has filed a nominating petition for the position, the governing body shall make an appointment to fill the position. Supervisors taking office pursuant to this subsection serve a term as if elected to the position."

**Section 91. Repealer.** Sections 13-12-208, 13-12-209, 13-13-221, 13-15-202, 13-16-413, and 13-17-301, MCA, are repealed.

**Section 92. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 13, chapter 15, part 1, and the provisions of Title 13, chapter 15, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 13, chapter 15, part 2, and the provisions of Title 13, chapter 15, part 2, apply to [section 2].

(3) [Sections 3 and 4] are intended to be codified as an integral part of Title 13, chapter 17, part 2, and the provisions of Title 13, chapter 17, part 2, apply to [sections 3 and 4].

**Section 93. Coordination instruction.** (1) If House Bill No. 87 is passed and approved, then the bracketed language in the definition of "ballot" contained in the amendment to 13-1-101 in [this act] is void.

(2) If House Bill No. 201 and [this act] are both passed and approved, then:

(a) [section 13] of House Bill No. 201, amending 13-13-211, is void and [section 35] of [this act], amending 13-13-211, must read as follows:

**"Section 35.** Section 13-13-211, MCA, is amended to read:

**"13-13-211. Time period for application.** ~~An~~ (1) Except as provided in 13-13-222, [section 4 of House Bill No. 201], 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 noon on the day before the election.

(2) ~~However, a~~ 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(3)."

(b) [section 16] of House Bill No. 201, amending 13-13-214, is void and [section 37 of this act], amending 13-13-214, must read as follows:

**"Section 37.** 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)(b) of this section, as soon as the official paper absentee ballots are printed, the election administrator shall immediately send by mail, postage prepaid, to each elector from whom the election administrator has received a valid application under 13-13-211 and 13-13-212 whatever official ballots are necessary. ~~Ballots must be sent immediately to electors submitting valid requests after the official ballots are printed.~~

(b) 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;

(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 secrecy envelope, free of any marks that would identify the voter; and

(b) ~~a self-addressed an~~ envelope for the return of the ballots. An 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 ~~stamp~~ ensure that the ballots provided to an absentee elector are marked as provided in 13-13-116 and remove the stubs from the ballots, attaching the stubs to the elector's absentee ballot application.

~~(4) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope must have printed across the face the information and graphics and be of the color prescribed by the secretary of state consistent with the regulations established by the federal election commission, the U.S. postal service, or other federal agency.~~

~~(5)~~(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.

~~(6)~~(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 ~~and verification~~ 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;

(b) the elector is out of the state or will be out of the state at the time of the election; and

(c) the elector requests a voter information pamphlet.

~~(7) The return envelope must be self-addressed to the election administrator."~~

(3) If both [this act] and House Bill No. 190 are passed and approved, then:

(a) [section 40 of this act], amending 13-13-231, is void.

(b) [section 41 of this act], amending 13-13-232, is void.

(c) [section 44 of this act], amending 13-13-241, is void.

(d) [section 45 of this act], amending 13-13-244, must read as follows:

**"Section 45.** Section 13-13-244, MCA, is amended to read:

**"13-13-244. Opening of return envelopes after deposit.** If ~~an~~ a return envelope containing an absentee ballot has been deposited unopened in the ballot box and the envelope has not been marked rejected, the return envelope shall must be opened without a court order and the ballot cast processed as provided in 13-13-241."

- END -



I hereby certify that the within bill,  
HB 0155, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

HOUSE BILL NO. 155

INTRODUCED BY JENT

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

AN ACT GENERALLY UPDATING AND REVISING PROVISIONS ON VOTING SYSTEM TECHNOLOGIES, BALLOT FORMATS, AND VOTE COUNTING; SPECIFYING UNIFORM STANDARDS FOR THE SECRETARY OF STATE'S APPROVAL OF A VOTING SYSTEM FOR USE IN THE STATE; REQUIRING THE SECRETARY OF STATE TO ADOPT UNIFORM STATEWIDE RULES; REQUIRING ELECTION ADMINISTRATORS TO COLLECT AND REPORT CERTAIN DATA; PROVIDING UNIFORM PROCEDURES ON HOW VOTES ARE COUNTED; CLARIFYING TRAINING REQUIREMENTS FOR ELECTION ADMINISTRATORS AND ELECTION JUDGES; CLARIFYING THE APPLICATION OF CERTAIN ELECTION LAWS TO SCHOOL ELECTION AND SCHOOL ELECTION ADMINISTRATORS; AMENDING SECTIONS 13-1-101, 13-1-103, 13-1-202, 13-1-203, 13-3-105, 13-4-101, 13-4-102, 13-4-203, 13-10-204, 13-10-208, 13-10-209, 13-10-211, 13-10-301, 13-10-302, 13-10-303, 13-10-311, 13-12-201, 13-12-202, 13-12-203, 13-12-204, 13-12-205, 13-12-212, 13-13-111, 13-13-112, 13-13-115, 13-13-116, 13-13-117, 13-13-201, 13-13-203, 13-13-205, 13-13-211, 13-13-212, 13-13-214, 13-13-222, 13-13-229, 13-13-231, 13-13-232, 13-13-233, 13-13-234, 13-13-241, 13-13-244, 13-14-115, 13-14-116, 13-14-117, 13-14-118, 13-14-212, 13-15-101, 13-15-103, 13-15-104, 13-15-105, 13-15-201, 13-16-201, 13-16-303, 13-16-411, 13-16-412, 13-16-414, 13-16-417, 13-16-420, 13-17-101, 13-17-102, 13-17-103, 13-17-104, 13-17-105, 13-17-106, 13-17-107, 13-17-201, 13-17-203, 13-17-204, 13-17-206, 13-17-305, 13-17-306, 13-19-106, 13-19-309, 13-19-312, 13-19-314, 13-25-101, 13-27-501, 13-27-502, 13-35-202, 13-35-205, 13-35-206, 13-37-126, 13-37-250, 13-38-201, 20-20-421, AND 76-15-303, MCA; AND REPEALING SECTIONS 13-12-208, 13-12-209, 13-13-221, 13-15-202, 13-16-413, AND 13-17-301, MCA.