

HOUSE BILL NO. 190  
INTRODUCED BY YOUNKIN  
BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; CLARIFYING THE TIMES FOR HOLDING SPECIAL ELECTIONS; IMPLEMENTING THE PROVISIONS OF THE HELP AMERICA VOTE ACT CONCERNING A STATEWIDE VOTER REGISTRATION LIST, INFORMATION SHARING, AND PROVISIONAL VOTING; PROVIDING THAT ALL ELECTORS MUST PRESENT IDENTIFICATION BEFORE VOTING; PROVIDING THAT A CANDIDATE MAY NOT FILE FOR MORE THAN ONE OFFICE; REQUIRING THAT A DECLARATION OF INTENT FILED BY A WRITE-IN CANDIDATE IS NOT VALID UNTIL THE FILING FEE IS PAID; REVISING PROVISIONS REGARDING VOTER INSTRUCTIONS THAT MUST BE DISPLAYED; REVISING WHEN ABSENTEE BALLOTS MUST BE AVAILABLE; REQUIRING THAT AN APPLICATION FOR AN ABSENTEE BALLOT INCLUDE THE ELECTOR'S BIRTH DATE; CLARIFYING THAT ABSENTEE BALLOT APPLICATIONS MUST BE MADE DIRECTLY TO THE ELECTION ADMINISTRATOR; PROVIDING THAT VOTING INSTRUCTIONS BE ENCLOSED WITH ABSENTEE BALLOT MAILINGS IRRESPECTIVE OF WHETHER THE ELECTOR IS OUT OF THE STATE; PROVIDING THAT STATE EMPLOYEE TIME MAY BE SPENT ON THE YOUTH VOTING PROGRAM; REVISING THE TIME WITHIN WHICH A CANVASSING BOARD IS REQUIRED TO MEET TO CANVASS THE RETURNS; PROVIDING THAT THE VOTER INFORMATION PAMPHLET MAY BE ADDRESSED TO THE CURRENT RESIDENT AT AN ADDRESS; REVISING THE TIME BY WHICH THE VOTER INFORMATION PAMPHLET MUST BE MAILED; ~~AND~~ ELIMINATING CERTAIN CHALLENGES TO AN ELECTOR'S ELIGIBILITY TO VOTE; AMENDING SECTIONS ~~13-1-104, 13-10-211, 13-13-212, 13-13-213, 13-13-214, 13-15-111, 13-22-107, AND 13-27-410;~~ 13-1-101, 13-1-104, 13-1-301, 13-2-115, 13-2-116, 13-2-122, 13-2-123, 13-2-205, 13-2-220, 13-2-402, 13-2-513, 13-2-514, 13-2-601, 13-10-201, 13-10-211, 13-13-112, 13-13-114, 13-13-201, 13-13-204, 13-13-205, 13-13-212, 13-13-213, 13-13-214, 13-13-232, 13-13-241, 13-13-301, 13-14-112, 13-14-113, 13-15-111, 13-15-401, 13-15-402, 13-19-313, 13-22-107, 13-27-410, AND 13-37-250, MCA; ~~AND~~ REPEALING SECTIONS 13-2-112, 13-2-114, 13-2-202, 13-2-203, 13-2-207, 13-2-219, 13-2-403, 13-2-404, 13-2-515, 13-2-603, 13-13-304, 13-13-305, 13-13-306, 13-13-307, 13-13-309, 13-13-310, AND 13-13-311, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

**Section 1.** 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 an~~ an elector who voted in the previous federal general election and 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~~ 13-2-220.

(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 form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to ~~confirmation,~~ verification as provided in ~~13-2-207~~ by law.

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

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

(10) (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);

(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) "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) "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) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name is was placed on an inactive list pursuant to 13-2-220.

(14) "Inactive list" means a list of inactive electors maintained ~~by an election administrator~~ pursuant to ~~13-2-219~~ 13-2-220.

(15) "Individual" means a human being.

(16) "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) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

~~(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).

~~(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.

(22) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(23) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

~~(21)~~(24) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(22)~~(25) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

~~(23)~~(26) "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.

(27) "Statewide voter registration list" means the voter registration list established and maintained pursuant to [sections 4 and 5].

(28) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(24)~~(29) "Voting machine or device" means any equipment used to record, tabulate, or in any manner process the vote of an elector."

**Section 2.** Section 13-1-104, MCA, is amended to read:

**"13-1-104. Times for holding general elections.** (1) (a) A ~~Except as provided in subsection (1)(b), a~~ general election must be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on 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, ~~unless an earlier date is provided in a law authorizing a special election on an initiative or referendum pursuant to Article III, section 6,~~ and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(b) A special election may be held on an earlier date provided in a law authorizing a special statewide election on an initiative or referendum pursuant to Article III, section 6, of the Montana constitution.

(2) A general election must be held throughout the state in every odd-numbered year on the first Tuesday

after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision, other than a municipality, required to hold elections annually ~~shall~~ must be held on school election day, the first Tuesday after the first Monday of May of each year, and is subject to the election procedures provided for in 13-1-401.

(4) The general election for a municipality required to hold elections annually may be held either on school election day, as provided in subsection (3), or on the first Tuesday after the first Monday in November, at the discretion of the governing body."

**Section 3.** Section 13-1-301, MCA, is amended to read:

**"13-1-301. Election administrator.** (1) The county clerk and recorder of each county is the election administrator unless the governing body of the county designates another official or appoints an election administrator.

(2) The election administrator is responsible for the administration of all procedures relating to registration of electors and conduct of elections, ~~and~~ shall keep all county records relating to elector registration and elections, and is the primary point of contact for the county with respect to the statewide voter registration list and implementation of other provisions of applicable federal law governing elections.

(3) The election administrator may appoint a deputy election administrator for each political subdivision required to hold annual elections under the provisions of 13-1-104(3). Each election administrator or deputy election administrator is responsible for the conduct of the annual elections of ~~such~~ the political subdivision, as provided by 13-1-401."

NEW SECTION. **Section 4. Statewide voter registration database -- information-sharing agreements.** (1) The secretary of state shall establish, in a uniform and nondiscriminatory manner, a single official, centralized, and interactive computerized statewide voter registration database that meets the requirements of 42 U.S.C. 15483.

(2) (a) The statewide voter registration database must be used as the official list of registered electors for the conduct of all elections subject to this title.

(b) The database must contain the name and registration information of each registered elector.

(c) Each election administrator must be provided with immediate electronic access to the database.

(d) The secretary of state shall provide the technical support required to assist election administrators to enter, maintain, and access information in the statewide voter registration database.

(3) As provided in 42 U.S.C. 15483:

(a) the secretary of state and the attorney general shall enter into an agreement to match information in the statewide voter registration list with information in the motor vehicle licensing database to the extent required to verify voter registration information; and

(b) the attorney general shall enter into an agreement with the United States commissioner of social security for the purpose of verifying voter registration information.

**NEW SECTION. Section 5. Rulemaking for statewide voter registration list.** (1) The secretary of state shall adopt rules to implement the provisions of 42 U.S.C. 15483 and this chapter.

(2) The rules must include but are not limited to:

(a) a list of maintenance procedures, including new data entry, updates, registration transfers, and other procedures for keeping information current and accurate;

(b) proper maintenance and use of active and inactive lists;

(c) proper maintenance and use of lists for legally registered electors and provisionally registered electors;

(d) procedures and timelines to be used by election administrators when providing the information required in 13-2-123;

(e) technical security of the statewide voter registration database;

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

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

**NEW SECTION. Section 6. Rulemaking on sufficiency and verification of voter registration information.** (1) The secretary of state shall adopt rules:

(a) to implement the provisions of [section 7] and this section concerning how election administrators determine whether the information provided by an elector on an application for voter registration is:

(i) sufficient to be accepted and processed; or

- (ii) insufficient to be accepted and processed;
  - (b) establishing procedures for verifying the accuracy of voter registration information;
  - (c) establishing standards for determining whether an elector may be legally registered or provisionally registered AND THE EFFECT OF THAT REGISTRATION ON IDENTIFICATION REQUIREMENTS; and
  - (d) establishing procedures for notifying electors about the status of their applications and registration.
- (2) The rules may not conflict with 42 U.S.C. 15301, et seq., or 13-2-208.

**NEW SECTION. Section 7. Application for voter registration -- sufficiency and verification of information -- identifiers assigned for voting purposes.** (1) An individual may apply for voter registration in person or by mail by completing and signing an application for voter registration and providing the application to the election administrator in the county in which the elector resides before the close of registration as provided in 13-2-301.

(2) An individual applying by mail shall send the application to the election administrator, postage paid, no later than 15 days after the date it is signed. An application for voter registration properly executed and postmarked on or before the day registration is closed must be accepted for 3 days after the close of registration.

(3) Each application for voter registration must be accepted and processed as provided in rules adopted under [section 6].

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

- (a) an applicant for voter registration shall provide the applicant's driver's license number; or
- (b) if the applicant does not have a driver's license, the applicant shall provide the last four digits of the applicant's social security number.

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

- (a) an applicant appearing in person before the election administrator shall provide:
  - (i) current and valid photo identification, INCLUDING BUT NOT LIMITED TO A VALID DRIVER'S LICENSE, A SCHOOL DISTRICT OR POSTSECONDARY EDUCATION PHOTO IDENTIFICATION, OR A TRIBAL PHOTO IDENTIFICATION, with the individual's name ~~and current address~~; or

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

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

- (i) a current and valid photo identification, INCLUDING BUT NOT LIMITED TO A VALID DRIVER'S LICENSE, A SCHOOL DISTRICT OR POSTSECONDARY EDUCATION PHOTO IDENTIFICATION, OR A TRIBAL PHOTO IDENTIFICATION, with



the individual's name ~~and current address~~; or

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

(6) (a) If information provided on an application for voter registration is sufficient to be accepted and processed and is verified pursuant to rules adopted under [section 6], the election administrator shall register the elector as a legally registered elector.

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

(7) Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under [section 6].

(8) The secretary of state shall assign to each elector whose application was accepted a unique identification number for voting purposes and shall establish a statewide uniform method to allow the secretary of state and local election officials to distinguish legally registered electors from provisionally registered electors.

(9) The provisions of this section may not be interpreted to conflict with voter registration accomplished under 13-2-212, 13-2-215, 13-2-221, and 61-5-107 and as provided for in federal law.

**Section 8.** Section 13-2-115, MCA, is amended to read:

**"13-2-115. ~~Registration~~ Certification of statewide voter registration list -- local lists to be prepared.** (1) ~~Except as provided in subsections (6) and (7), immediately~~ Immediately after registration is closed, the secretary of state shall certify the official statewide voter registration list.

(2) Each election administrator shall ~~prepare and~~ have printed from the certified statewide voter registration database lists of all registered electors in each precinct in the county. ~~Names~~ Except as provided in subsections (5) and (6), names of electors must be listed alphabetically, with their residence address or with a mailing address if located where street numbers are not used. ~~A preliminary list of registered electors may be printed before the close of registration for an election. If a preliminary list is printed, a supplementary list must be printed after the close of registration.~~

~~(2)~~(3) A copy of the list of registered ~~voters~~ electors in a precinct must be displayed at the precinct's polling place. Extra copies of the lists must be retained by the election administrator and furnished to an elector upon request.

~~(3) The list of registered electors prepared for a primary election may be used for the general election if a supplemental list giving the additions and deletions since the primary list was prepared is printed. The election administrator may prepare lists for a special election, but lists are not required to be printed for special elections.~~

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

~~(5) The election administrator shall forward a list of all registered electors in the county to the secretary of state, as provided in 13-2-123. The secretary of state shall use the lists submitted by election administrators to compile and maintain a list of all registered electors in the state. Upon written request, the secretary of state shall furnish to any elector, for noncommercial use, a current list of registered electors. Upon delivery of the list to the elector, the secretary of state shall charge and collect a fee, which must be set and deposited in accordance with 2-15-405.~~

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

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

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

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

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

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

**Section 9.** Section 13-2-116, MCA, is amended to read:

**"13-2-116. Precinct register.** (1) Before each election, the election administrator shall prepare from the

certified statewide voter registration list a precinct register for each precinct in the county for use by the election judges. The register must contain an alphabetical list of the names, with addresses, of the legally registered electors and provisionally registered electors, a space for the signature of the elector, and ~~such~~ other information as prescribed by the secretary of state.

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

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

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

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

**"13-2-122. Charges for registers, elector lists, and mailing labels made available to public.** (1) Except as provided in ~~subsections~~ subsection (2) and (3), upon written request, the ~~registrar~~ secretary of state or a local election administrator shall furnish to any elector, for noncommercial use, a copy of the official precinct registers, a current list of legally registered electors, or mailing labels for registered electors. Upon delivery, the ~~registrar~~ secretary of state or the local election administrator may collect a charge not to exceed the actual cost of the register, list, or mailing labels.

~~(2) If the registrar receives in writing from a law enforcement officer or reserve officer, as defined in 7-32-201, a request that, for security reasons, the officer's and the officer's spouse's residential address, if the same as the officer's, not be disclosed, the registrar may not include the address on any register, list, or mailing labels disseminated pursuant to subsection (1):~~

~~(3)(2) An~~ For an elector whose address information is protected from general distribution under 13-2-115(5) or (6), the secretary of state or a local election administrator may not include an individual's the elector's residential address on any register, list, or mailing labels but shall may list only the elector's name or names if the individual requests that the individual's address not be used and the individual proves to the election administrator those matters described in 13-2-115(7)(a)(i) or (7)(a)(ii)."

**Section 11.** Section 13-2-123, MCA, is amended to read:

**"13-2-123. Election administrator to provide list of electors to secretary of state.** (1) The election

administrator in each county shall provide to the secretary of state ~~a list by precinct of all registered electors in the county. The list must include~~ the following information, when possible, for each elector:

- (a) name;
- (b) mailing address;
- (c) precinct number;
- ~~(d) registration number assigned by the county election administrator pursuant to 13-2-114;~~
- ~~(e)~~(d) residence address;
- ~~(f)~~(e) telephone number;
- (f) driver's license number or last four digits of the elector's social security number;
- (g) date of birth;
- (h) gender;
- (i) legislative house district;
- (j) date of registration; ~~and~~
- (k) whether the elector's name is on the active or inactive list of electors; and
- (l) whether the elector is a legally registered elector or a provisionally registered elector.

(2) The information must be provided in accordance with rules adopted under [section 5].

~~(2) (a) Except as provided in subsection (2)(b), the list provided pursuant to subsection (1) must be a paper copy:~~

~~—— (b) If the county election administrator also maintains the information in other media, such as on a computer disk or tape, and the secretary of state requests the information in that media, the county election administrator shall also provide the list in that media:~~

~~—— (3) In odd-numbered years, the list of electors required by subsection (1) must be delivered to the secretary of state by December 15.~~

~~—— (4) In even-numbered years, the list of electors required by subsection (1) must be delivered to the secretary of state:~~

~~—— (a) for a primary election, no later than July 1, and the list must indicate any changes made up to and including the date of the June primary; and~~

~~—— (b) for a general or special election, 30 days prior to the close of registration before the election.~~

~~—— (5) Each election administrator may provide the secretary of state with a supplemental list of electors in even-numbered years, giving the additions, deletions, and changes made between the time that the previous list was compiled and the close of registration."~~

**Section 12.** Section 13-2-205, MCA, is amended to read:

**"13-2-205. Procedure when prospective elector not qualified at time of registration.** An individual who is not eligible to register because of residence or age requirements but who will be eligible on or before election day may register if it appears that he will become qualified to vote by election day apply for voter registration pursuant to [section 7] and be registered subject to verification procedures established pursuant to [section 6]."

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

**"13-2-220. Maintenance of active and inactive voter registration rolls lists for elections -- rules by secretary of state.** (1) The rules adopted by the secretary of state ~~shall adopt rules specifying a list of procedures from which an election administrator shall choose at least one procedure for the maintenance of accurate voter registration rolls for use in elections:~~

~~— (2) The procedures specified by the secretary of state under [section 5] must include the following procedures, which an election administrator shall follow in every odd-numbered year:~~

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

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

(c) mail a targeted mailing to electors who ~~have~~ failed to vote in the preceding federal general election by:

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

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

(iii) sending forwardable confirmation notices; or

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

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

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

**Section 14.** Section 13-2-402, MCA, is amended to read:

**"13-2-402. Reasons for cancellation.** The election administrator shall cancel the registration of an elector:

- (1) at the written request of the registered elector;
- (2) if a certificate of the death of the elector is filed or if the elector is reported as deceased by the department of public health and human services in the department's reports submitted to the county under 50-15-409;
- (3) if the elector is of unsound mind as established by a court;
- (4) if the incarceration of the elector in a penal institution for a felony conviction is legally established;
- (5) if a certified copy of a court order directing the cancellation is filed with the election administrator;
- (6) if the elector is successfully challenged and not allowed to vote at an election upon determination of an election judge;
- (7) if a notice is received from the secretary of state or from another county or state that the elector has registered in ~~that~~ another county or state; or
- (8) if the elector fails to respond to certain confirmation mailings and fails to vote in two consecutive federal general elections."

**Section 15.** Section 13-2-513, MCA, is amended to read:

**"13-2-513. Procedure for transferring registration.** ~~The~~ Subject to the rules adopted under [section 5], the election administrator shall make the necessary corrections in the registration records ~~in his office~~ when ~~he~~ the election administrator receives a transfer form or corrected registration form ~~if he is satisfied the form is valid. The original registration form may be fastened to the back of the new form, in which case the original and current forms must be retained, or the original registration form may be marked "canceled" and filed in a canceled file.~~

**Section 16.** Section 13-2-514, MCA, is amended to read:

**"13-2-514. Change of residence to another county.** (1) An elector who changes ~~his~~ residence to a different county within this state ~~must~~ shall register in ~~his~~ the new county of residence in order to vote in any

election unless the change occurs less than 45 days before the election.

(2) An elector who changes his residence to a different county 45 days or less before an election may vote in person or by absentee ballot in the precinct and county where previously registered.

~~(3) The elector must state his correct name and residence address and date of residence change when offering to vote or when applying for an absentee ballot. The election administrator shall note the information on the elector's registration form if an absentee ballot application is received. The election judges shall note the change of address and date of residence change in the precinct register if the elector votes in person.~~

~~(4)~~(3) The registration information of an elector who votes under the provisions of subsection (2) ~~of this section shall be canceled~~ must be updated in the statewide voter registration list after the election pursuant to rules adopted under [section 5]."

**Section 17.** Section 13-2-601, MCA, is amended to read:

**"13-2-601. Name on Special addendum to precinct register prima facie evidence of right to vote.**

~~(1) An elector may not vote at an election mentioned in this title unless his name appears on election day in the copy of the official precinct register furnished by the election administrator to the election judges. The fact that his name appears in the copy of the precinct register is prima facie evidence of his right to vote.~~

~~(2) The name of an elector who has been assigned to vote in a precinct other than the precinct in which he the person is registered, as provided in 13-3-213, must be printed on a special addendum to the precinct register in a form prescribed by the secretary of state. The fact that an elector's name appears on a special addendum to the precinct register is prima facie evidence of his right to vote in the precinct.~~"

**Section 18.** Section 13-10-201, MCA, is amended to read:

**"13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall send a declaration for nomination to the secretary of state or election administrator. A candidate may not file for more than one office. Each candidate for governor shall send a joint declaration for nomination with a candidate for lieutenant governor.

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

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

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of

the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. The declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party.

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

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

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

(6) Declarations for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

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

**Section 19.** 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) 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.

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

**Section 20.** Section 13-13-112, MCA, is amended to read:

**"13-13-112. Display of instructions for electors.** (1) Instructions for electors on how to prepare their ballots or use machines or devices must be posted in each compartment 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) how to obtain ballots for voting;
- (b) how to prepare ballots for deposit in the ballot box; ~~and~~
- (c) how to obtain a new ballot in place of one spoiled by accident;
- (d) how to vote provisionally pursuant to [section 22];
- (e) the election date and the hours the polls are open; and
- (f) instructions for first-time voters who registered by mail.

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

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

**Section 21.** Section 13-13-114, MCA, is amended to read:

**"13-13-114. Marking Voter identification and marking precinct register book before elector votes -- provisional voting.** (1) (a) Before an elector is permitted to receive a ballot or vote, ~~he shall sign his name on the place designated in the precinct register. Before signing the register, the elector shall state his~~ the elector shall present to an election judge a current photo identification showing the elector's name and current address. If the elector does not present photo identification or if the name or address shown on the identification is not the same as listed in the precinct register, INCLUDING BUT NOT LIMITED TO A VALID DRIVER'S LICENSE, A SCHOOL DISTRICT OR POSTSECONDARY EDUCATION PHOTO IDENTIFICATION, OR A TRIBAL PHOTO IDENTIFICATION, the elector shall present a current utility bill, bank statement, paycheck, NOTICE OF CONFIRMATION OF VOTER REGISTRATION ISSUED PURSUANT TO 13-2-207, government check, or other government document that shows the elector's name and current address.

(B) AN ELECTOR WHO PROVIDES THE INFORMATION LISTED IN SUBSECTION (1)(A) MAY SIGN THE PRECINCT REGISTER AND MUST BE PROVIDED WITH A REGULAR BALLOT TO VOTE.

~~(b)(C)~~ IF THE INFORMATION PROVIDED IN SUBSECTION (1)(A) DIFFERS FROM INFORMATION IN THE PRECINCT REGISTER BUT an election judge determines the information provided is sufficient to verify the voter's identity and eligibility to vote PURSUANT TO 13-2-512, the elector must may sign the precinct register, complete a transfer form

or new registration form to correct the elector's voter registration information, and vote.

~~(e)(D)~~ The An election ~~judges~~ judge shall write "transfer form" or "registration form" beside the name of any elector submitting a form. ~~No elector may sign the precinct register unless his name and address are the same as shown in the register or the proper corrections have been made.~~

(2) If the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register, the elector may sign the precinct register and cast a provisional ballot as provided in [section 22].

~~(2)(3)~~ If the elector is not able to sign ~~his~~ the elector's name to the precinct register, a fingerprint or other identifying mark may be used.

~~(3)(4)~~ If the elector fails or refuses to sign ~~his~~ the elector's name or, if unable to write, fails to provide a fingerprint or other identifying mark, ~~he~~ the elector may ~~not vote~~ cast a provisional ballot as provided in [section 22]."

NEW SECTION. Section 22. Provisional voting in person. (1) Before being given a ballot, an elector casting a provisional ballot:

(a) must be given information, in a form prescribed by the secretary of state, explaining how to vote provisionally, what information must be provided by the elector to verify the elector's eligibility, and how to determine whether the elector's provisional ballot is or is not counted and, if not, the reasons why;

(b) shall sign an affirmation in a form prescribed by the secretary of state swearing that, to the best of the elector's knowledge, the elector is eligible to vote in the election and precinct and is aware of the penalty for false swearing; and

(c) shall cast and return the provisional ballot to an election judge, who shall place the ballot into an envelope prescribed by the secretary of state for provisional ballots.

(2) A provisional ballot must be handled as provided in [section ~~35~~ 36].

(3) An elector making a false affirmation under this section is subject to the penalty for false swearing provided in 45-7-202.

NEW SECTION. Section 23. Fail-safe and provisional voting by mail. (1) To ensure the election administrator has information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the outer return envelope, together with the voted ballot in the secrecy envelope, a copy of a current and valid photo identification with the elector's name ~~and current address. If the elector's name or address on the~~

~~photo identification is not current, the elector shall also enclose~~ OR a copy of a current utility bill, bank statement, paycheck, NOTICE OF CONFIRMATION OF VOTER REGISTRATION ISSUED PURSUANT TO 13-2-207, government check, or other government document that shows the elector's name and current address.

(2) If a provisionally registered elector voting by mail does not enclose with the ballot the information described in subsection (1), if the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility, or if the elector's name does not appear on the precinct register, the elector's ballot must be handled as a provisional ballot under [section ~~35~~ 36].

**NEW SECTION. Section 24. Rulemaking on provisional voting, absentee ballots, and challenged ballots.** (1) The secretary of state shall adopt rules to:

(a) implement the provisions of 13-13-114 and [sections 22 through 24] concerning verification of voter identification and eligibility;

(b) establish standards for determining the sufficiency of information provided on absentee ballot return envelopes pursuant to 13-13-241;

(c) implement the provisions of [section ~~35~~ 36] on the handling and counting of provisional and challenged ballots, including the establishment of procedures for verifying voter registration and eligibility information with respect to the ballots.

(2) The rules may not conflict with rules established under [section 6].

**Section 25.** Section 13-13-201, MCA, is amended to read:

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

(2) The elector may vote the absentee ballot 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 13-13-221.

(3) (a) The elector may also enclose in the outer return envelope a copy of the elector's photo

identification showing the elector's name ~~and address~~, INCLUDING BUT NOT LIMITED TO A VALID DRIVER'S LICENSE, A SCHOOL DISTRICT OR POSTSECONDARY EDUCATION PHOTO IDENTIFICATION, OR A TRIBAL PHOTO IDENTIFICATION. If the elector does not enclose a photo identification or if the elector's name or address on the photo identification is ~~not current~~, the elector shall ~~also~~ enclose a copy of a current utility bill, bank statement, paycheck, NOTICE OF CONFIRMATION OF VOTER REGISTRATION ISSUED PURSUANT TO 13-2-207, government check, or other government document that shows the elector's name and current address.

(b) If the elector fails to provide the information required under subsection (3)(a) or the information provided is insufficient to verify the elector's identity and eligibility, the elector's ballot must be handled as a provisional ballot."

**Section 26.** Section 13-13-204, MCA, is amended to read:

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

(2) If an elector does not receive an absentee ballot or if the absentee ballot was destroyed, the elector may appear at the appropriate polling place on election day and vote in person after signing an affidavit, in the form prescribed by the secretary of state, swearing that the elector's ballot has not been received or was destroyed. ~~Before the ballot is given to the elector, the election judge shall write upon the back of the ballot the number of the ballot. The ballot may be cast out if it appears to the court to have been wrongfully or illegally voted. The ballot must be handled as a provisional ballot under [section 35 36].~~

(3) If an elector votes by absentee ballot and dies between the time of balloting and election day, the deceased elector's ballot does not count."

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

**"13-13-205. When ballots to be available.** (1) The election administrator shall ensure that ballots are printed and available for absentee voting at least ~~45~~ 30 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 ballots are printed and available for absentee voting at least 20 days prior to an election.

(3) IF BALLOTS ARE SENT MORE THAN 30 DAYS BEFORE AN ELECTION, THE ELECTION ADMINISTRATOR SHALL INCLUDE A NOTICE THAT THE VOTER INFORMATION PAMPHLET, WHEN REQUIRED TO BE DISTRIBUTED, WILL BE PROVIDED PURSUANT TO 13-27-410."

**Section 28.** 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, USING ONLY A STANDARDIZED FORM PROVIDED BY RULE BY THE SECRETARY OF STATE, by making a written request, which must include the applicant's birth date and must be signed by the applicant;. The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(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.

(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 29.** Section 13-13-213, MCA, is amended to read:

**"13-13-213. Transmission of application to election administrator -- delivery of ballot.** (1) Except

as provided in subsection ~~(2)~~ (3), the elector shall:

~~(A) forward the application by mail~~ the application directly to the election administrator; or

~~(B) deliver it the application in person to the election administrator; OR~~

(C) HAND THE APPLICATION TO A THIRD PARTY FOR DELIVERY TO THE ELECTION ADMINISTRATOR, IF THE PERSON RECEIVING THE BALLOT APPLICATION PROVIDES TO THE ELECTOR A RECEIPT IN A FORM DESIGNATED BY THE SECRETARY OF STATE.

(2) The election administrator shall compare the signature on the application with the applicant's signature on the registration card. If convinced the individual making the application is the same as the one whose name appears on the registration card, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214.

~~(2)(3)~~ In lieu of the requirement provided in subsection (1), an elector who requests an absentee ballot pursuant to 13-13-212(3) may return the application to the special absentee election board. Upon receipt of the application, the special absentee election board shall examine the signatures on the application and a copy of the voting registration card to be provided by the election administrator. If the special absentee election board believes that the applicant is the same person as the one whose name appears on the registration card, the special absentee election board shall provide a ballot to the elector."

**Section 30.** Section 13-13-214, MCA, is amended to read:

**"13-13-214. Mailing ballot to elector.** (1) (a) Except as provided in 13-13-213 and in subsection (1)(b) of this section, as soon as the official ballots are printed, the election administrator shall send by mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application 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 envelope for the return of the ballots. 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 the ballots provided to an absentee elector, 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) 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; and

(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 31. SECTION 13-13-232, MCA, IS AMENDED TO READ:**

**"13-13-232. Delivery of ballots, secrecy envelopes, and return envelopes to election judges -- ballots to be rejected.** (1) If the absentee ballot is received prior to delivery of the official ballots to the election judges, the election administrator shall compare signatures on the return envelope for validity, open the outer return envelope to determine whether proof of identity is included, process it according to 13-13-241, and then deliver the unopened return secrecy 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 13-13-241.~~

(2) If absentee ballots are received after the ballots are delivered to the election judges but prior to the



close of the polls, the election administrator shall process the return envelopes according to subsection (1) and shall then immediately deliver the unopened return envelopes to the judges. ~~The return envelopes must be opened and the ballots processed according to the procedures described in 13-13-241.~~

(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."

**Section 32.** 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 ballots.** (1) ~~(a) While the polls are open, the election judges may~~ AS SOON AS AN ABSENTEE BALLOT IS RECEIVED, AN ELECTION ADMINISTRATOR SHALL compare the signature of the elector on the absentee ballot request ~~and affirmation~~ with the signature on the absentee ballot return envelope. ~~If they find that the signatures correspond, that the affirmation is sufficient, and that the absentee elector is qualified, they may open the absentee ballot return envelope~~ Except as provided in subsection (2), after comparing the signatures, the election judges shall ADMINISTRATOR OR ELECTION JUDGE SHALL OPEN THE OUTER RETURN ENVELOPE AND determine whether the elector's voter identification information enclosed pursuant to 13-13-201 is sufficient pursuant to rules adopted under [section 6].

(b) A ballot cast by an elector who provided sufficient information must be handled as provided in subsections (3) and (4). A ballot cast by an elector whose voter information is insufficient or whose name does not appear on the precinct register must be handled as a provisional ballot under [section 35 36]. THE ELECTION ADMINISTRATOR SHALL NOTIFY THE ABSENTEE ELECTOR BY MAIL THAT THE ELECTOR'S IDENTIFICATION INFORMATION WAS INSUFFICIENT AND THAT THE ELECTOR'S BALLOT WILL BE TREATED AS A PROVISIONAL BALLOT UNTIL THE ELECTOR PROVIDES SUFFICIENT INFORMATION, PURSUANT TO RULES ADOPTED BY THE SECRETARY OF STATE. THE ELECTION ADMINISTRATOR SHALL PROVIDE A SELF-ADDRESSED RETURN ENVELOPE ALONG WITH THE INFORMATION NECESSARY FOR THE ABSENTEE ELECTOR TO RECLASSIFY THE PROVISIONAL BALLOT AS A REGULAR BALLOT.

(2) ~~If the absentee ballot does not meet the requirements specified in subsection (1) signature on the absentee ballot return envelope does not match the signature on the absentee ballot request form, it the absentee ballot~~ must be rejected. ~~The~~ ON ELECTION DAY, THE election judges, without opening the absentee ballot ~~return~~ SECRECY envelope, shall mark across it the reason for rejection and a majority of the judges shall sign their initials.

Unopened rejected absentee ballot return envelopes must be handled in the same manner as provided for rejected ballots in 13-13-243.

(3) After opening the absentee ballot 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 ballot has not been placed in the secrecy envelope, without unfolding the ballot or permitting it to be examined, the election judges shall place the ballot in the secrecy envelope and place the secrecy envelope in the proper ballot box."

**Section 33.** Section 13-13-301, MCA, is amended to read:

**"13-13-301. Challenges on election day.** (1) An elector's right to vote may be challenged on election day by any registered elector by orally stating to the election judges the grounds of the challenge.

(2) An individual offering to vote may be orally challenged by any elector of the county upon the following grounds:

(a) ~~that he is not the individual whose name appears on the register;~~

(b) ~~that he does not reside at the residence listed unless the elector is voting under the provisions of 13-2-512 and 13-2-514;~~

(e) that he the elector is of unsound mind, as determined by a court;

~~(d)~~(b) that he the elector has voted before in that election; or

~~(e)~~(c) that he the elector has been convicted of a felony and is serving a sentence in a penal institution.

(3) An elector challenged under this section may cast a provisional ballot, which must be handled as a provisional ballot under [section 35 36]."

**Section 34.** Section 13-14-112, MCA, is amended to read:

**"13-14-112. Declarations for nomination -- fee.** (1) Nonpartisan candidates shall file declarations for nomination as required by the primary election laws in a form prescribed by the secretary of state except as provided in 13-14-113. A candidate may not file for more than one office.

(2) Declarations may not indicate political affiliation. The candidate may not state in ~~his~~ the declaration any principles or measures ~~he~~ that the candidate advocates or any slogans.

(3) Each individual filing a declaration shall pay the fee prescribed by law for the position ~~he~~ that the individual seeks.

(4) Declarations ~~shall~~ must be filed in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201. Time of filing ~~shall~~ must be the same as provided in 13-10-201."

**Section 35.** Section 13-14-113, MCA, is amended to read:

**"13-14-113. Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for which ~~no~~ a salary or fees are not paid shall file with the appropriate official a petition for nomination containing the same information and the oath of the candidate required for a declaration of nomination in a form prescribed by the secretary of state.

(2) The petition must contain the signatures of registered electors of the election district in which the office will be on the ballot. The number of signatures must be equal to 5% of the total vote cast for the successful candidate for that office at the last general election, but ~~in no case~~ may it not be less than five signatures.

(3) The number of signatures necessary for a petition for nomination for an office not previously on the ballot or for which the election district boundaries have changed since the last general election ~~shall~~ must be determined by the secretary of state.

(4) Petitions for nomination ~~shall~~ must be filed at the same time provided in 13-10-201 for other candidates and offices.

(5) A candidate may not file for more than one office."

**NEW SECTION. Section 36. Handling and counting provisional and challenged ballots.** ~~(1) Before 5 p.m. on the day after an election, an elector who cast a provisional ballot may provide information to the election administrator to verify the elector's eligibility to vote.~~ (1) TO VERIFY ELIGIBILITY TO VOTE, AN ELECTOR WHO CASTS A PROVISIONAL BALLOT IN PERSON SHALL PROVIDE INFORMATION TO THE ELECTION ADMINISTRATOR AS LISTED BELOW:

(A) PRESENT IN PERSON AT THE OFFICE OF THE ELECTION ADMINISTRATOR BY 5 P.M. ON THE DAY AFTER THE ELECTION A PHOTO IDENTIFICATION OR OTHER IDENTIFYING DOCUMENT AS DESCRIBED IN 13-13-114(1)(A);

(B) SEND BY FACSIMILE OR ELECTRONIC MAIL BY 5 P.M. ON THE DAY AFTER THE ELECTION A COPY OR SCANNED DOCUMENT THAT MEETS THE IDENTIFICATION REQUIREMENTS OF 13-13-114(1)(A); OR

(C) MAIL A COPY OR NONRETURNABLE ORIGINAL DOCUMENT DESCRIBED IN 13-13-114(1)(A) IN A SELF-ADDRESSED RETURN ENVELOPE PROVIDED BY THE ELECTION ADMINISTRATOR. IF THE ELECTOR MAILS A DOCUMENT, THE POSTMARK ON THE ENVELOPE MUST BE FOR THE DAY OF THE ELECTION OR THE DAY FOLLOWING THE ELECTION.

(2) THE ELECTION ADMINISTRATOR SHALL DETERMINE PRIOR TO AN ELECTION WHETHER AN ABSENTEE VOTER HAS PROVIDED SUFFICIENT IDENTIFICATION TO ALLOW A BALLOT TO BE COUNTED. IF THE INFORMATION IS INSUFFICIENT,

THE ELECTION ADMINISTRATOR SHALL FOLLOW PROCEDURES DESCRIBED IN 13-13-241 TO ALLOW AN ABSENTEE ELECTOR WHO FAILED TO PROVIDE PROPER IDENTIFYING INFORMATION IN THE OUTER RETURN ENVELOPE TO VERIFY ELIGIBILITY TO VOTE. AN ABSENTEE ELECTOR WHOSE BALLOT IS DETERMINED TO BE PROVISIONAL HAS UNTIL 5 P.M. ON THE DAY AFTER THE ELECTION TO PROVIDE VALID IDENTIFICATION INFORMATION EITHER IN PERSON, BY FACSIMILE, BY ELECTRONIC MAIL, OR BY MAIL POSTMARKED ON THE DAY OF THE ELECTION OR THE DAY AFTER THE ELECTION.

~~(2)~~(3) A provisional ballot must be counted if the election administrator verifies the elector's eligibility pursuant to rules adopted under [section ~~23~~ 24]. However, a provisional ballot may not be counted if the election administrator cannot verify the elector's eligibility under the rules.

~~(3)~~(4) The election administrator shall provide an elector who cast a provisional ballot but whose ballot was not counted with the reasons why the ballot was not counted.

~~(4)~~(5) A provisional ballot cast by an elector whose voter information is verified before 5 p.m. on the day after the election must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other ballot.

**Section 37.** Section 13-15-111, MCA, is amended to read:

**"13-15-111. Write-in elections -- general election.** (1) An individual elected by having ~~his~~ the individual's name written in at the general election and receiving the largest number of votes shall:

(a) file with the secretary of state or election administrator, not later than 10 days after the official canvass, a written declaration indicating ~~his~~ the individual's acceptance of the position for which ~~he was~~ elected;

(b) comply with the provisions of 13-37-225; and

(c) pay the required filing fee or, if indigent, comply with 13-10-203.

(2) If an individual fails to ~~file the declaration as required under~~ comply with the requirements in subsection (1)~~(a)~~, ~~he~~ the individual may not assume the position for which ~~he was~~ elected."

**Section 38.** Section 13-15-401, MCA, is amended to read:

**"13-15-401. Governing body as board of county canvassers.** (1) The governing body of a county or consolidated local government is ex officio a board of county canvassers and shall meet as the board of county canvassers at the usual place of meeting of the governing body within 3 to 7 days after each election, at a time determined by the board, to canvass the returns.

(2) If one or more of the members of the governing body cannot attend the meeting, the member's place must be filled by one or more county officers chosen by the remaining members of the governing body so that

the board of county canvassers' membership equals the membership of the governing body.

(3) The governing body of any political subdivision in the county that participated in the election may join with the governing body of the county or consolidated local government in canvassing the votes cast at the election.

(4) The election administrator is secretary of the board of county canvassers and shall keep minutes of the meeting of the board and file them in the official records of the administrator's office."

**Section 39.** Section 13-15-402, MCA, is amended to read:

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

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

(3) If the returns from an election precinct have not been received by the election administrator within 3 to 7 days after an election, ~~he~~ the election administrator shall immediately advise the chief election judge.

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

**Section 40.** Section 13-19-313, MCA, is amended to read:

**"13-19-313. Notice to elector -- opportunity to resolve questions.** (1) As soon as possible after receipt of an elector's return/verification envelope, the election administrator shall give notice to the elector, either by telephone or by first-class mail, if the election administrator:

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

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

(2) The election administrator shall inform the elector that the elector may appear in person at the election administrator's office prior to 8 p.m. on election day and verify the signature or correct the mistake.

(3) Any elector appearing pursuant to subsection (2) must be permitted to:

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

(b) correct any minor mistake if the correction would render the ballot valid; or

(c) if necessary, request and receive a replacement ballot and vote it at that time.

(4) If a mail ballot is returned, the election administrator shall investigate the reason for the return and mail a confirmation notice ~~provided for in 13-2-207~~. ~~However, the~~ The notice must be sent by forwardable, first-class mail with a postage-paid, return-addressed notice. If the confirmation notice is returned to the election administrator, the elector must be placed on an inactive list until that elector becomes a qualified elector."

**Section 41.** Section 13-22-107, MCA, is amended to read:

**"13-22-107. Funding.** (1) ~~Public~~ Except for compensation for time spent by employees of the secretary of state and the superintendent of public instruction, public money may not be used to support or fund the youth voting program established in this chapter.

(2) A nonprofit corporation may be formed subject to the provisions of Title 35, chapter 2, to solicit donations from private sources. Money solicited under this subsection must be used only for the youth voting program."

**Section 42.** Section 13-27-410, MCA, is amended to read:

**"13-27-410. Printing and distribution of voter information pamphlet.** (1) The secretary of state shall arrange with the department of administration by requisition for the printing and delivery of a voter information pamphlet for all ballot issues to be submitted to the people at least 110 days before the election at which they will be submitted. The requisition must include a delivery list providing for shipment of the required number of pamphlets to each county and to the secretary of state.

(2) The secretary of state shall estimate the number of copies necessary to furnish one copy to each voter in each county, except that two or more voters with the same mailing address and the same last name may be counted as one voter. The secretary of state shall provide for an extra supply of the pamphlets in determining the number of voter pamphlets to be ordered in the requisition.

(3) The department of administration shall call for bids and contract with the lowest bidder for the printing and delivery of the voter information pamphlet. The contract must require completion of printing and shipment, as specified on the delivery list, of the voter information pamphlets by not later than 45 days before the election at which the ballot issues will be voted on by the people.

(4) The county official responsible for voter registration in each county shall mail one copy of the voter information pamphlet to each registered voter in the county who is on the active voter list, except that two or more

voters with the same mailing address and the same last name may be counted as one voter. The mailing label may include an address line that addresses the voter or the current resident. The mailing must take place no later than ~~2 weeks~~ 30 days before the election.

(5) Ten copies of the voter information pamphlet must be available at each precinct for use by any voter wishing to read the explanatory information and complete text before voting on the ballot issues."

**Section 43.** 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~~(18)(b)~~(19)(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."

**NEW SECTION. Section 44. Repealer.** Sections ~~13-2-112~~, 13-2-114, 13-2-202, 13-2-203, ~~13-2-207~~, 13-2-219, 13-2-403, 13-2-404, 13-2-515, 13-2-603, 13-13-304, 13-13-305, 13-13-306, 13-13-307, 13-13-309, 13-13-310, and 13-13-311, MCA, are repealed.

**NEW SECTION. Section 45. Codification instruction.** (1) [Sections 4 through 7] are intended to be codified as an integral part of Title 13, chapter 2, part 1, and the provisions of Title 13, chapter 2, part 1, apply to [sections 4 through 7].

(2) [Sections 22 through 24] are intended to be codified as an integral part of Title 13, chapter 13, and the provisions of Title 13, chapter 13, apply to [sections 22 through 24].

(3) [Section ~~35~~ 36] 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 ~~35~~ 36].

**NEW SECTION. SECTION 46. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JANUARY 1, 2004.**

- END -