

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS; PROVIDING THAT THE
5 TOP TWO CANDIDATES WHO RECEIVE THE MOST VOTES IN PRIMARY ELECTIONS FOR UNITED
6 STATES SENATOR, UNITED STATES REPRESENTATIVE, GOVERNOR, LIEUTENANT GOVERNOR,
7 SECRETARY OF STATE, ATTORNEY GENERAL, STATE AUDITOR, SUPERINTENDENT OF PUBLIC
8 INSTRUCTION, AND THE PUBLIC SERVICE COMMISSION ADVANCE TO THE GENERAL ELECTION
9 IRRESPECTIVE OF PARTY AFFILIATION; EXTENDING EXISTING RULEMAKING AUTHORITY; PROVIDING
10 THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING
11 MCA SECTIONS; REPEALING MCA SECTION; AND PROVIDING AN EFFECTIVE DATE AND AN
12 APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 2-16-615, MCA, is amended to read:

17 **"2-16-615. Filing of recall petitions -- mandamus for refusal.** (1) Recall petitions for elected officers
18 ~~shall~~ must be filed with the official who is provided by law to accept the declaration of ~~nomination~~ candidacy or
19 petition for nomination for ~~such~~ the office. Recall petitions for appointed state officers ~~shall~~ must be filed with the
20 secretary of state and for appointed county or municipal officers ~~shall~~ must be filed with the county election
21 administrator. Recall petitions for appointed officers from other political subdivisions ~~shall~~ must be filed with the
22 county election administrator if the boundaries of the political subdivisions lie wholly within one county or
23 otherwise with the secretary of state.

24 (2) If the secretary of state, county election administrator, or other filing official refuses to accept and file
25 any petition for recall with the proper number of signatures of qualified electors, any elector may within 10 days
26 after ~~such~~ the refusal apply to the district court for a writ of mandamus. If it is determined that the petition is
27 sufficient, the district court shall order the petition to be filed with a certified copy of the writ attached ~~thereto~~, as
28 of the date when it was originally offered for filing. On a showing that any filed petition is not sufficient, the court
29 may enjoin certification, printing, or recall election.

30 (3) All ~~such~~ suits or appeals ~~therefrom~~ under this section must be advanced on the court docket

1 and heard and decided by the court as expeditiously as possible.

2 (4) Any aggrieved party may file an appeal within 10 days after any adverse order or decision as
3 provided by law."

4

5 **Section 2.** Section 7-2-2219, MCA, is amended to read:

6 **"7-2-2219. Conduct of election.** (1) (a) The board issuing the notice of election pursuant to 7-2-2215
7 shall require the county election administrator to furnish to the election judges of each precinct in the proposed
8 new county all election supplies and equipment necessary to conduct the election that are not specifically directed
9 to be furnished by the election administrator of another county or counties.

10 (b) The election administrator of each county from which territory is taken for the proposed new county
11 shall, not less than 5 days before the date of the election, furnish for each precinct within the proposed new
12 county a precinct register for the precincts of the proposed new county that are within their respective counties.

13 (2) The elections provided for in 7-2-2215 are governed and controlled by the general election laws of
14 the state to the extent that the general election laws are applicable and except as otherwise provided in this
15 section. The provisions of the election laws relating to preparation, printing, and distribution of sample ballots,
16 except the provisions of these laws relating to primary elections in this state, apply to any election provided for
17 in this part. All returns of an election must be made to and canvassed by the board of county commissioners
18 calling the election.

19 (3) ~~All nominations of candidates~~ Candidates for offices required to be filled at the election ~~must be made~~
20 may appear on the ballot only in the manner provided by law ~~for the nomination of candidates by petition.~~"

21

22 **Section 3.** Section 7-3-176, MCA, is amended to read:

23 **"7-3-176. Election of commission members.** (1) If the question of reviewing the local government and
24 establishing a study commission is approved, an election to fill the positions on the local government study
25 commission must be held in conjunction with the first regularly scheduled election of the local government
26 conducted after 90 days following the election establishing the study commission. A primary election may not be
27 held.

28 (2) The names of study commission candidates who have filed declarations of ~~nomination~~ candidacy
29 not later than 75 days before the date of the election must be placed on the ballot. There is no filing fee. The
30 election is nonpartisan, and candidates must be listed without party or other designation or slogan. The secretary

1 of state shall prescribe the ballot form for study commissioners.

2 (3) Candidates for study commission positions must be electors of the local government for which the
3 study commission has been established. The candidates may not be elected officials of the local government.

4 (4) The number of candidates, equal to the number of study commission positions to be elected,
5 receiving the highest number of votes, which includes votes cast for candidates who have officially filed
6 ~~nominations~~ declarations and votes for write-in candidates, must be declared elected. If there is a tie vote among
7 candidates, the governing body shall decide by lot which candidate will fill the position.

8 (5) If the number of study commissioners elected is not equal to the number required to be selected, the
9 presiding officer of the governing body, with the confirmation of the governing body, shall appoint the additional
10 study commissioners within 20 days of the election. An elected official of the local government may not be
11 appointed."

12

13 **Section 4.** Section 7-3-218, MCA, is amended to read:

14 **"7-3-218. Selection of commission members.** The commission ~~shall~~ must be:

15 (1) elected at large;

16 (2) elected by districts in which candidates must reside and ~~which~~ that are apportioned by population;

17 (3) elected at large and ~~nominated~~ by a plan of nomination that ~~may not preclude the possibility of~~ allows
18 the majority of the electors ~~nominating~~ to elect candidates for the majority of the seats on the commission from
19 persons residing in the district or districts where the majority of the electors reside; or

20 (4) elected by any combination of districts, in which candidates must reside and ~~which~~ that are
21 apportioned by population, and at large."

22

23 **Section 5.** Section 7-3-313, MCA, is amended to read:

24 **"7-3-313. Selection of commission members.** The commission ~~shall~~ must be:

25 (1) elected at large;

26 (2) elected by districts in which candidates must reside and ~~which~~ that are apportioned by population;

27 (3) elected at large and ~~nominated~~ by a plan of nomination that ~~may not preclude the possibility of~~ allows
28 the majority of the electors ~~nominating~~ to elect candidates for the majority of the seats on the commission from
29 persons residing in the district or districts where the majority of the electors reside; or

30 (4) elected by any combination of districts, in which candidates must reside and ~~which~~ that are

1 apportioned by population, and at large."

2

3 **Section 6.** Section 7-3-412, MCA, is amended to read:

4 **"7-3-412. Selection of commission members.** The commission ~~shall~~ must be:

5 (1) elected at large;

6 (2) elected by districts in which candidates must reside and ~~which that~~ are apportioned by population;

7 (3) elected at large and ~~nominated~~ by a plan of nomination that ~~may not preclude the possibility of~~ allows

8 the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from

9 persons residing in the district or districts where the majority of the electors reside; or

10 (4) elected by any combination of districts, in which candidates must reside and ~~which that~~ are

11 apportioned by population, and at large."

12

13 **Section 7.** Section 7-3-512, MCA, is amended to read:

14 **"7-3-512. Selection of commission members.** The commission ~~shall~~ must be:

15 (1) elected at large;

16 (2) elected by districts in which candidates must reside and ~~which that~~ are apportioned by population;

17 (3) elected at large and ~~nominated~~ by a plan of nomination that ~~may not preclude the possibility of~~ allows

18 the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from

19 persons residing in the district or districts where the majority of the electors reside; or

20 (4) elected by any combination of districts, in which candidates must reside and ~~which that~~ are

21 apportioned by population, and at large."

22

23 **Section 8.** Section 7-3-704, MCA, is amended to read:

24 **"7-3-704. Legislative body.** (1) The charter ~~shall~~ must provide for an elected legislative body (called

25 a commission or council) or ~~shall~~ must provide for a legislative body comprised of all qualified electors. For

26 elected legislative bodies, the charter ~~shall~~ must specify the number of members ~~thereof of the body~~, their term

27 of office, election on a partisan or nonpartisan basis, the grounds for their removal, and the method for filling

28 vacancies.

29 (2) The charter ~~shall~~ must provide for the ~~nomination and~~ election of commissions:

30 (a) at large;

- 1 (b) by districts in which candidates must reside and ~~which that~~ are apportioned by population;
- 2 (c) by a combination of districts, in which candidates must reside and ~~which that~~ are apportioned by
- 3 population, and at large; or
- 4 (d) elected at large ~~and nominated~~ by a plan of nomination that ~~may not preclude the possibility of~~ allows
- 5 the majority of the electors ~~nominating to elect~~ candidates for the majority of the seats on the commission from
- 6 persons residing in the district or districts where the majority of the electors reside."

7

8 **Section 9.** Section 7-3-1256, MCA, is amended to read:

9 **"7-3-1256. Appointive officers not to seek other office.** Any appointive officer or employee of the

10 municipality who ~~shall become~~ becomes a candidate for ~~nomination or~~ election to any public office shall

11 immediately forfeit the office or employment held under the municipality."

12

13 **Section 10.** Section 7-4-2106, MCA, is amended to read:

14 **"7-4-2106. Vacancy on board of county commissioners -- resigning member not to participate in**

15 **filling pending vacancy.** (1) For the purposes of this part, "vacancy" has the same meaning as prescribed in

16 2-16-501.

17 (2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or

18 otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until the

19 next general election unless otherwise provided in subsection (3) or (4). The procedure to be used to fill the

20 vacancy is as follows:

21 (a) If the former incumbent represented a party eligible for a primary election under 13-10-601, the

22 county central committee of that party shall submit to the remaining commissioners three names of people who

23 have lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining

24 commissioners shall appoint one of these three to fill the vacancy. Whenever the remaining commissioners are

25 unable to elect an appointee from the submitted list, they shall request a second list of three names from the

26 county central committee. The second list may not contain any of the names submitted on the first list. The

27 remaining commissioners shall then select an appointee from the individuals named on both lists.

28 (b) If the former incumbent was independent or was ~~originally nominated by a member of~~ a party that

29 does not meet the requirements of 13-10-601 or if the vacancy occurs from a failure to elect, the remaining

30 commissioners shall invite applications for the vacancy in a notice published as provided in 13-1-108 and shall

1 accept an application from any person who has lived in the unrepresented district for at least 2 years preceding
2 the day the vacancy occurs. The remaining commissioners shall appoint one of these applicants to fill the
3 vacancy.

4 (3) Whenever a vacancy occurs prior to August 1 before the general election held during the second or
5 fourth year of the term, an individual must be elected to complete the term at that general election. The election
6 procedure to be used to elect the successor is as follows:

7 (a) Whenever the vacancy occurs prior to March 1 before the primary election during the second or
8 fourth year of the term, the same procedure must be used as is used to elect county commissioners to full 6-year
9 terms.

10 (b) Whenever the vacancy occurs on or after March 1 preceding the primary election, any political party
11 desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political
12 party shall notify the county election administrator of the party ~~nominee~~ candidate. A person desiring to be a
13 candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for
14 an independent candidate must be filed with the county election administrator prior to August 1 before the general
15 election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

16 (4) Whenever a vacancy occurs after July 31 preceding the general election held during the fourth year
17 of the term, the person appointed by the remaining county commissioners under subsection (2) shall serve until
18 the end of the term.

19 (5) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the county
20 compensation board provided for in 7-4-2503 shall, subject to subsection (5)(c) of this section, appoint enough
21 commissioners to allow for a quorum to be established. The vacancies must be filled in the order in which the
22 commissioners' terms would have expired.

23 (b) If vacancies occur at different times but, because appointments have not yet been made, a quorum
24 cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint enough
25 commissioners to allow for a quorum to be established. The county compensation board shall appoint each
26 commissioner in the order that the vacancy occurred.

27 (c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in
28 7-4-2104(2) and must be from the same district as the commissioner being replaced.

29 (ii) If a commissioner being replaced represented a party eligible for a primary election under 13-10-601,
30 the county central committee of that party shall, within 30 days of the occurrence of the vacancy, submit to the

1 county compensation board three names of people who have lived in the unrepresented district for at least 2
2 years prior to the occurrence of the vacancy. The county compensation board shall appoint each commissioner
3 from the list of names provided by the county central committee.

4 (d) Once a quorum can be established, the county commissioners forming the quorum shall appoint the
5 remaining commissioners as provided in this section.

6 (e) If a county compensation board does not exist, appointments under this subsection (5) must be made
7 by a district judge having jurisdiction in the county.

8 (6) If a member of the board of county commissioners has submitted the member's resignation as
9 provided in 2-16-502 or if proceedings have begun to remove the member from office under 2-16-501, that
10 member may not be considered to be a remaining member of the commission as provided in this section and may
11 not participate in filling the vacancy to be created when the resignation becomes effective."
12

13 **Section 11.** Section 7-4-2206, MCA, is amended to read:

14 **"7-4-2206. Vacancies -- appointment of interim officer.** (1) For the purposes of this part, "vacancy"
15 has the same meaning as prescribed in 2-16-501.

16 (2) (a) Vacancies in all county offices, except that of county commissioner, must be filled by appointment
17 by the board of county commissioners. Except as provided in subsections (3) and (4), the appointee holds the
18 office, if elective, until the person elected at the next general election is certified pursuant to 13-15-406. If the
19 office is not elective, the appointee serves at the pleasure of the commissioners.

20 (b) The commissioners may appoint a person to serve as an interim officer for the time period between
21 occurrence of the vacancy and the date on which the vacancy is filled pursuant to this section. A person
22 appointed as an interim officer must have the qualifications required under this chapter for the office to which the
23 person has been appointed. Upon appointment, the interim officer is authorized to perform the duties assigned
24 by law to that office.

25 (3) Whenever a vacancy occurs prior to August 1 before the general election held during the second year
26 of the term, an individual must be elected to complete the term at that general election. The election procedure
27 to be used to elect the successor is as follows:

28 (a) Whenever the vacancy occurs prior to March 1 before the primary election during the second year
29 of the term, the same procedure must be used as is used to elect a person to that office for a full 4-year term.

30 (b) Whenever the vacancy occurs on or after March 1 before the primary election, any political party

1 desiring to enter a candidate in a partisan election in the general election shall select a candidate as provided
 2 in 13-38-204. A political party shall notify the county election administrator of the party ~~nominee~~ candidate. A
 3 person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and
 4 13-10-502. The petition for an independent candidate must be filed with the county election administrator prior
 5 to August 1 before the general election. A candidate for a nonpartisan office shall file as provided in Title 13,
 6 chapter 14.

7 (4) Whenever a vacancy occurs on or after July 31 before the general election held during the second
 8 year of the term, the person appointed by the commissioners under subsection (2) shall serve until the end of the
 9 term."

10
 11 **Section 12.** Section 7-4-2302, MCA, is amended to read:

12 **"7-4-2302. Petition for consolidation of county offices.** (1) At any time not later than 45 days before
 13 the date on which declarations ~~for nomination~~ of candidacy may first be filed for any county office, a petition in
 14 writing may be filed with the board of county commissioners of a county asking for the consolidation of any two
 15 or more of ~~said those~~ such offices by the board of ~~such the~~ the county.

16 (2) The petition ~~shall~~ must be signed by not less than 15% of the registered electors of ~~such the~~ the county."

17
 18 **Section 13.** Section 7-4-2310, MCA, is amended to read:

19 **"7-4-2310. Order for consolidation of offices.** (1) In consolidating county offices, the board of county
 20 commissioners shall, not less than 7 days before the date on which declarations ~~for nomination~~ of candidacy may
 21 first be filed for any office to be consolidated or not less than 6 months prior to the appointment to the offices to
 22 be consolidated, make and enter an order combining any two or more of the within-named offices.

23 (2) Whenever an order consolidating two or more offices is made, the order ~~shall~~ must be entered in full
 24 on the board's minutes of proceedings.

25 (3) The order ~~shall~~ must be published in a newspaper of general circulation, printed and published in the
 26 county or counties affected, for a period of 2 successive weeks following the date of the making and entering of
 27 the order."

28
 29 **Section 14.** Section 7-4-4112, MCA, is amended to read:

30 **"7-4-4112. Filling of vacancy.** (1) When a vacancy occurs in any elective office, this position is

1 considered open and subject to ~~nomination and~~ election at the next general municipal election in the same
 2 manner as the election of any other person holding the same office, except the term of office is limited to the
 3 unexpired term of the person who originally created the vacancy. Pending an election and qualification, the
 4 council shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the office
 5 until a successor is elected and qualified.

6 (2) If all council positions become vacant at one time, the board of county commissioners shall appoint
 7 persons within 5 days to hold office as a city council member. The appointed city council member shall then
 8 appoint persons to any other vacant elective offices.

9 (3) A vacancy in the office of city council member must be filled from the ward in which the vacancy
 10 exists."

11

12 **Section 15.** Section 13-1-101, MCA, is amended to read:

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

15 (1) "Active elector" means an elector whose name has not been placed on the inactive list due to failure
 16 to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

17 (2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

18 (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that
 19 is ordinarily not given away free but is purchased.

20 (4) "Application for voter registration" means a voter registration form prescribed by the secretary of state
 21 that is completed and signed by an elector, submitted to the election administrator, and contains voter registration
 22 information subject to verification as provided by law.

23 (5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such as an
 24 optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots.

25 (6) "Candidate" means:

26 (a) an individual who has filed a declaration of candidacy, ~~or~~ petition for nomination, ~~acceptance of~~
 27 ~~nomination~~, or appointment as a candidate for public office as required by law;

28 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained
 29 contributions, made expenditures, or given consent to an individual, organization, political party, or committee
 30 to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure ~~nomination~~

1 selection to advance or election to any office at any time, whether or not the office for which the individual will
 2 seek ~~nomination~~ selection to advance or election is known when the:

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

7 (7) "Certificate of selection" means a certificate awarded to the individual or individuals authorized by
 8 law to advance from a primary election and appear on the general election ballot.

9 ~~(7)(8)~~ (a) "Contribution" means:

- 10 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value
 11 to influence an election;
 12 (ii) a transfer of funds between political committees;
 13 (iii) the payment by a person other than a candidate or political committee of compensation for the
 14 personal services of another person that are rendered to a candidate or political committee.

15 (b) "Contribution" does not mean:

- 16 (i) services provided without compensation by individuals volunteering a portion or all of their time on
 17 behalf of a candidate or political committee or meals and lodging provided by individuals in their private
 18 residences for a candidate or other individual;
 19 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any
 20 broadcasting station, newspaper, magazine, or other periodical publication of general circulation;
 21 (iii) the cost of any communication by any membership organization or corporation to its members or
 22 stockholders or employees; or
 23 (iv) filing fees paid by the candidate.

24 ~~(8)(9)~~ "Election" means a general, regular, special, or primary election held pursuant to the requirements
 25 of state law, regardless of the time or purpose.

26 ~~(9)(10)~~ "Election administrator" means the county clerk and recorder or the individual designated by a
 27 county governing body to be responsible for all election administration duties, except that with regard to school
 28 elections not administered by the county, the term means the school district clerk.

29 ~~(10)(11)~~ "Elector" means an individual qualified to vote under state law.

30 ~~(11)(12)~~ (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or

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

2 (b) "Expenditure" does not mean:

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

4 (8);

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

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

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

11 ~~(12)~~(13) "Federal election" means a general or primary election in which an elector may vote for
12 individuals for the office of president of the United States or for the United States congress.

13 ~~(13)~~(14) "General election" or "regular election" means an election held for the election of public officers
14 throughout the state at times specified by law, including elections for officers of political subdivisions when the
15 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues
16 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the
17 legislature to the electors at a general election, "general election" means an election held at the time provided
18 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted
19 as a constitutional initiative at a regular election, regular election means an election held at the time provided in
20 13-1-104(1).

21 ~~(14)~~(15) "Inactive elector" means an individual who failed to respond to confirmation notices and whose
22 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

23 ~~(15)~~(16) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

24 ~~(16)~~(17) "Individual" means a human being.

25 ~~(17)~~(18) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
26 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall
27 questions, school levy questions, bond issue questions, or a ballot question.

28 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the
29 proper official that the legal procedure necessary for its qualification and placement upon the ballot has been
30 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the

1 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

2 ~~(18)~~(19) "Legally registered elector" means an individual whose application for voter registration was
3 accepted, processed, and verified as provided by law.

4 ~~(19)~~(20) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by mailing
5 ballots to all active electors.

6 ~~(21)~~ "Partisan primary" means the primary election process for partisan public office except for elections
7 for United States senator, United States representative, governor, lieutenant governor, secretary of state, attorney
8 general, state auditor, superintendent of public instruction, and the public service commission.

9 ~~(20)~~(22) "Person" means an individual, corporation, association, firm, partnership, cooperative,
10 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

11 ~~(24)~~(23) "Place of deposit" means a location designated by the election administrator pursuant to
12 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

13 ~~(22)~~(24) "Political committee" means a combination of two or more individuals or a person other than an
14 individual who makes a contribution or expenditure:

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

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

18 (c) as an earmarked contribution.

19 ~~(23)~~(25) "Political subdivision" means a county, consolidated municipal-county government, municipality,
20 special district, or any other unit of government, except school districts, having authority to hold an election for
21 officers or on a ballot issue.

22 ~~(24)~~(26) "Polling place election" means an election primarily conducted at polling places rather than by
23 mail under the provisions of Title 13, chapter 19.

24 ~~(25)~~(27) "Primary" or "primary election" means an election held throughout the state at times specified
25 by law to nominate narrow the number of candidates for public office ~~at times specified by law, including~~
26 ~~nominations of candidates for offices of political subdivisions when the time for nominations is set on the same~~
27 ~~date for all similar subdivisions in the state.~~

28 ~~(26)~~(28) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not
29 been verified as provided by law.

30 ~~(27)~~(29) "Provisionally registered elector" means an individual whose application for voter registration

1 was accepted but whose identity or eligibility has not yet been verified as provided by law.

2 ~~(28)~~(30) "Public office" means a state, county, municipal, school, or other district office that is filled by
3 the people at an election.

4 ~~(29)~~(31) "Random-sample audit" means an audit involving a manual count of ballots from designated
5 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

6 ~~(30)~~(32) "Registrar" means the county election administrator and any regularly appointed deputy or
7 assistant election administrator.

8 (33) "Selection to advance" or "selected to advance" means the status given to an individual authorized
9 by law to advance from a primary election and appear on the general election ballot.

10 ~~(31)~~(34) "School election" has the meaning provided in 20-20-101.

11 ~~(32)~~(35) "School election filing officer" means the filing officer with whom the declarations ~~for nomination~~
12 of candidacy for school district office were filed or with whom the school ballot issue was filed.

13 ~~(33)~~(36) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount
14 duties in school elections.

15 ~~(34)~~(37) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that
16 is designed to:

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

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

20 ~~(35)~~(38) "Special election" means an election other than a statutorily scheduled primary or general
21 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
22 scheduled election.

23 ~~(36)~~(39) "Statewide voter registration list" means the voter registration list established and maintained
24 pursuant to 13-2-107 and 13-2-108.

25 (40) "Top two primary" means the primary election process for United States senator, United States
26 representative, governor, lieutenant governor, secretary of state, attorney general, state auditor, superintendent
27 of public instruction, and the public service commission to narrow the number of candidates for each office to the
28 two candidates who, irrespective of political party preference, receive the highest number of votes cast in the
29 race.

30 ~~(37)~~(41) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an

1 elector to transfer the elector's registration when the elector's residence address has changed within the county.

2 ~~(38)~~(42) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided
3 in 13-15-206.

4 ~~(39)~~(43) "Voted ballot" means a ballot that is:

- 5 (a) deposited in the ballot box at a polling place;
- 6 (b) received at the election administrator's office; or
- 7 (c) returned to a place of deposit.

8 ~~(40)~~(44) "Voting system" or "system" means any machine, device, technology, or equipment used to
9 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

10

11 **Section 16.** Section 13-1-103, MCA, is amended to read:

12 **"13-1-103. Determination of winner.** (1) The individual receiving the highest number of valid votes for
13 any office at an a general election, nonpartisan election, or partisan primary election is selected to advance or
14 elected or nominated to that office.

15 (2) In a top two primary, the two individuals receiving the most votes are selected to advance."

16

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

18 **"13-4-102. Manner of choosing election judges.** (1) Subject to 13-4-107, election judges must be
19 chosen from lists of qualified registered electors for each precinct in the county, submitted at least 45 days before
20 the primary election in even-numbered years by the county central committees of the political parties eligible to
21 nominate candidates in the last presidential primary.

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

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

30 (4) The election administrator shall make appointments to fill vacancies from the list provided for in

1 subsection (2). If the list is insufficient or if one or more of the eligible political parties fails to submit a list meeting
 2 the requirements of this section, the election administrator may select enough people meeting the qualifications
 3 of 13-4-107 to fill election judge vacancies in all precincts.

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

7

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

9 **"13-10-201. Declaration for nomination of candidacy -- term limitations.** (1) Each candidate in the
 10 primary election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a
 11 declaration ~~for nomination of candidacy~~ with the secretary of state or election administrator. Except for a
 12 candidate who files under 13-38-201, a candidate may not file for more than one public office. Each candidate
 13 for governor shall file a joint declaration ~~for nomination of candidacy~~ with a candidate for lieutenant governor.

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

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

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

20 (3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an
 21 indigent candidate, send with it the ~~documents~~ statement required by 13-10-203. Unless filed electronically with
 22 the secretary of state, the declaration ~~for nomination of candidacy~~ must be acknowledged by an officer
 23 empowered to acknowledge signatures or by the officer of the office at which the filing is made.

24 (4) The declaration ~~for nomination of candidacy~~ must include an oath of the candidate that includes
 25 wording substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory
 26 deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the
 27 state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven otherwise
 28 in a court of law.

29 (5) (a) In a top two primary, each candidate may state the candidate's political party preference on the
 30 declaration of candidacy. A candidate may not declare a preference for more than one party. When identifying

1 a political party preference, a candidate is not restricted to identifying an established party and may use a limited
 2 number of characters, according to rules adopted by the secretary of state, to identify a political party preference.

3 (b) In a top two primary, a declaration of political party preference is not evidence that the candidate has
 4 been nominated or endorsed by the political party or that the party approves of or associates with that candidate.

5 ~~(5)(6)~~ The In a partisan primary, the declaration of candidacy, when filed, is conclusive evidence that the
 6 elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a
 7 declaration for more than one party's nomination.

8 ~~(6)(7)~~ (a) The declaration ~~for nomination~~ of candidacy must be in the form and contain the information
 9 prescribed by the secretary of state.

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

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

16 ~~(7)(8)~~ (a) Except as provided in 13-10-211 and subsection ~~(7)(b)~~ (8)(b) of this section, a candidate's
 17 declaration ~~for nomination~~ of candidacy must be filed no sooner than 135 days before the election in which the
 18 office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

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

23 ~~(8)(9)~~ A properly completed and signed declaration ~~for nomination~~ of candidacy form may be sent by
 24 facsimile transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the
 25 secretary of state.

26 ~~(9)(10)~~ For the purposes of implementing Article IV, section 8, of the Montana constitution, the secretary
 27 of state shall apply the following conditions:

28 (a) A term of office for an official serving in the office or a candidate seeking the office is considered to
 29 begin on January 1 of the term for which the official is elected or for which the candidate seeks election and end
 30 on December 31 of the term for which the official is elected or for which the candidate seeks election.

1 (b) A year is considered to start on January 1 and end on the following December 31.

2 (c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided
3 in 2-16-214."

4

5 **Section 19.** Section 13-10-203, MCA, is amended to read:

6 **"13-10-203. Indigent candidates.** If an individual is unable to pay a filing fee, the filing officer shall
7 accept the following documents in lieu of a filing fee:

8 (1) from a candidate in a top two primary or a successful write-in candidate, a statement that the
9 candidate is unable to pay the filing fee;

10 (2) from a candidate ~~for nomination in a partisan primary~~, a statement that the candidate is unable to pay
11 the filing fee and a written petition ~~for nomination as a candidate~~ that meets the following requirements:

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

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

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

18 (d) the signatures have been submitted to the appropriate election administrator at least 1 week prior
19 to the applicable deadline in 13-10-201~~(7)~~(8) and have been certified by the appropriate election administrator
20 by the procedure provided in 13-27-303 and 13-27-304."

21

22 **Section 20.** Section 13-10-204, MCA, is amended to read:

23 **"13-10-204. Write-in nominations candidates.** (1) An individual ~~nominated~~ selected to advance in a
24 partisan primary or nonpartisan primary by having the individual's name written in and counted as provided in
25 13-15-206(5) or otherwise placed on the primary ballot and desiring to accept the ~~nomination~~ selection may not
26 have the individual's name appear on the general election ballot unless the individual:

27 (a) received at least 5% of the total votes cast for the successful candidate for the same office at the last
28 general election;

29 (b) files with the secretary of state or election administrator, no later than 10 days after the official
30 canvass, a written declaration indicating acceptance of the ~~nomination~~ selection to advance; and

1 (c) complies with the provisions of 13-37-126.

2 (2) An individual receiving the highest or second-highest number of votes in a top two primary election
 3 by having the individual's name written in and counted as provided in 13-15-206(5) or otherwise placed on the
 4 primary ballot may not have the individual's name appear on the general election ballot unless the individual files
 5 with the secretary of state or election administrator, no later than 10 days after the official canvass, a written
 6 declaration indicating acceptance of selection to advance and complies with the provisions of 13-37-126.

7 ~~(2)~~(3) A write-in candidate who was exempt from filing a declaration of intent under 13-10-211 shall, at
 8 the time of filing the declaration of acceptance, pay the filing fee specified in 13-10-202 or, if indigent, file the
 9 appropriate documents described in 13-10-203."

10

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

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

17 (b) Nonpartisan offices, offices elected in a top two primary, and ballot issues must be prepared on
 18 separate ballots from the partisan primary ballots. Nonpartisan offices, offices elected in a top two primary, and
 19 ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

20 (i) each section is clearly identified as separate; and

21 (ii) the nonpartisan offices, offices elected in a top two primary, and ballot issues appear on each party's
 22 ballot.

23 (2) (a) In a top two primary election, the political party preference declared by the candidate on the
 24 declaration of candidacy under 13-10-201 must appear with the candidate's name on the ballot. The word
 25 "preference" must follow the candidate's preferred party, if any. If a candidate has not declared a preference for
 26 a political party, the words "no party preference" must appear on the ballot with the candidate's name. Nothing
 27 in a top two primary election portion of the ballot may indicate whether a candidate has been endorsed or
 28 nominated by a political party. The top two primary portion or portions of the ballot must clearly and conspicuously
 29 state that candidates in that section are not nominees or members of or endorsed by or otherwise associated with
 30 the candidate's political party preference.

1 (b) Information must be printed on the ballot and in the voter information pamphlet provided for in
 2 13-27-401 to inform voters that in the top two primary the two candidates who receive the most votes for the office
 3 will advance to a general election regardless of a candidate's political party preference.

4 ~~(2)(3)~~ Except as provided in subsection ~~(3)~~ (4), an election administrator ~~does is not need~~ required to
 5 prepare a primary ballot for a political party if:

6 (a) ~~the a~~ party does not have candidates for more than half of the offices to appear on the partisan
 7 primary ballot; and

8 (b) no more than one candidate files for ~~nomination~~ selection to advance by that party for any of the
 9 offices to appear on the partisan primary ballot.

10 ~~(3)(4)~~ Subsection ~~(2)~~ (3) does not apply to elections for precinct committee offices. If more than one
 11 candidate files for a precinct committee office from a party that will not have a partisan primary ballot prepared,
 12 that party shall select the candidate to fill the office.

13 ~~(4)(5)~~ If, pursuant to subsection ~~(2)~~ (3), in a partisan primary election held under 13-1-107(1) a primary
 14 ballot for a political party is not prepared, the secretary of state shall certify that a primary election is unnecessary
 15 for that party and shall instruct the election administrator to certify the names of the candidates for that party for
 16 the general election ballot only.

17 ~~(5)(6)~~ The separate ballots for each party must have the same appearance. Each set of party ballots
 18 must bear the same number. If prepared as ~~a separate ballot~~ ballots, the nonpartisan ballot and top two primary
 19 ballots may have ~~a different appearance~~ appearances than the party ballots but must be numbered in the same
 20 order as the party ballots.

21 ~~(6)(7)~~ If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot
 22 or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but
 23 must be numbered in the same order.

24 ~~(7)(8)~~ Each elector must receive a set of ballots that includes the ~~party~~ partisan primary, top two primary,
 25 nonpartisan, and ballot issue choices."

26
 27 **Section 22.** Section 13-10-211, MCA, is amended to read:

28 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (8),
 29 a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent.
 30 Except for a candidate who files under 13-38-201, a candidate may not file for more than one public office. The

1 declaration of intent must be filed with the secretary of state or election administrator, depending on where a
2 declaration of ~~nomination~~ candidacy for the desired office is required to be filed under 13-10-201, or with the
3 school district clerk for a school district office. When a county election administrator is conducting the election
4 for a school district, the school district clerk or school district office that receives the declaration of intent shall
5 notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration
6 must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot
7 must be available for absentee voting for the election and must contain:

- 8 (a) (i) the candidate's first and last names;
9 (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the
10 candidate's last name;
11 (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and
12 (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;
13 (b) the candidate's mailing address;
14 (c) a statement declaring the candidate's intention to be a write-in candidate;
15 (d) the title of the office sought;
16 (e) the date of the election;
17 (f) the date of the declaration; and
18 (g) the candidate's signature.

19 (2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than
20 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office
21 that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not been
22 canceled as provided by law.

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

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

29 (5) A properly completed and signed declaration of intent may be provided to the election administrator
30 or secretary of state:

1 (a) by facsimile transmission;

2 (b) in person;

3 (c) by mail; or

4 (d) by electronic mail.

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

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

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

10 (a) an election is held;

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

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

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

16

17 **Section 23.** Section 13-10-301, MCA, is amended to read:

18 "**13-10-301. ~~Casting of ballot~~ Primary election procedures.** (1) Unless otherwise provided by law, the
19 conduct of the primary election, the voting procedure, the counting, tallying, and return of ballots and all election
20 records and supplies, the canvass of votes, the certification and notification of ~~nominees~~ candidates, recounts,
21 procedures upon tie votes, and any other necessary election procedures must be at the same times and in the
22 same manner as provided for in the laws for the general election.

23 (2) At a partisan primary election, the elector shall cast votes on only one of the party ballots, preparing
24 the ballot as provided in 13-13-117. After casting votes on any other ballots received other than the party ballots,
25 the elector shall ensure the proper disposition of the ballots in accordance with instructions provided pursuant
26 to 13-13-112.

27 (3) The elector's ballot must be handled as prescribed in 13-13-117."

28

29 **Section 24.** Section 13-10-302, MCA, is amended to read:

30 "**13-10-302. Write-in votes for previously ~~nominated~~ selected candidates.** (1) Subject to subsection

1 (2), if an elector casts a write-in vote for a candidate on a partisan primary party ballot when the candidate's name
2 also appears or is written in for the same office on another party's ballot, the write-in vote counts only with respect
3 to the party on whose ballot the write-in vote was cast and the write-in votes, if on multiple parties' ballots, and
4 the votes cast for the candidate on the other party's ballots may not be added together.

5 (2) A write-in vote must be counted as provided in 13-15-206(5)."
6

7 **Section 25.** Section 13-10-303, MCA, is amended to read:

8 **"13-10-303. Nominations ~~Selections~~ by more than one party.** If an individual is ~~nominated~~ selected
9 to advance by more than one party in a partisan primary, the individual shall, not later than 10 days after the
10 election, file written notification with the secretary of state or election administrator indicating the party under
11 which the individual's name is to appear upon the ballot for the general election. If the individual fails to notify the
12 proper officers, the individual's name must appear under the party with whom the declaration ~~for nomination of~~
13 candidacy was filed if a declaration was filed. If an individual did not file a declaration or acceptance of ~~nomination~~
14 selection and fails to notify the proper officers, the individual's name must appear on the ballot without a party
15 designation."
16

17 **Section 26.** Section 13-10-311, MCA, is amended to read:

18 **"13-10-311. Election judges' duties when preparing for count.** (1) Except as otherwise provided in
19 this section, election judges at the primary election shall prepare for a count of votes in the manner prescribed
20 in 13-15-201.

21 (2) In preparing for a count in a partisan primary, the election judges shall:

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

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

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

27 (d) bundle the voted ballots for each party separately for return to the election administrator. The unvoted
28 ballots must be bundled in accordance with rules established pursuant to 13-12-202."
29

30 **Section 27.** Section 13-10-325, MCA, is amended to read:

1 **"13-10-325. Withdrawal from nomination election.** (1) (a) A candidate ~~for nomination or candidate~~
 2 ~~for election to an office~~ may withdraw from the election by sending a statement of withdrawal to the officer with
 3 whom the candidate's declaration, petition, or acceptance of ~~nomination~~ selection was filed. The statement must
 4 contain all information necessary to identify the candidate and the office sought. Unless filed electronically with
 5 the secretary of state, the statement of withdrawal ~~from nomination~~ must be acknowledged by an officer
 6 empowered to acknowledge signatures or by the officer of the office at which the filing is made.

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

9 (c) A candidate may not withdraw later than 85 days before a general election conducted pursuant to
 10 13-1-104(1)(a) or a primary election conducted pursuant to 13-1-107(1).

11 (2) Filing fees paid by the candidate may not be refunded."
 12

13 **Section 28.** Section 13-10-326, MCA, is amended to read:

14 **"13-10-326. Vacancy prior to primary election.** (1) Except as provided in subsection (2):

15 (a) if a candidate ~~for nomination~~ for a partisan office dies or withdraws 75 days or more before the
 16 partisan primary election, the affected political party may appoint someone to replace the candidate by the
 17 procedure provided in 13-10-327; or

18 (b) if a candidate ~~for nomination~~ for a partisan office dies less than 75 days before the partisan primary
 19 election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327
 20 if a candidate for that office for that party was not ~~nominated~~ selected to advance at the primary election.

21 (2) For an election conducted pursuant to 13-1-104(1)(a) or 13-1-107(1):

22 (a) (i) if a candidate ~~for nomination~~ for a partisan office dies or withdraws 85 days or more before the
 23 partisan primary election, the affected political party may appoint someone to replace the candidate by the
 24 procedure provided in 13-10-327; or

25 ~~(b)~~(ii) if a candidate ~~for nomination~~ for a partisan office dies less than 85 days before the partisan primary
 26 election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327
 27 if a candidate for that office for that party was not ~~nominated~~ selected to advance at the partisan primary election.

28 (b) (i) if a candidate in a top two primary dies or withdraws 85 days or more before the primary election,
 29 an individual intending to replace the candidate in the primary election may use the procedure provided in
 30 13-10-201; or

1 (ii) if a candidate in a top two primary who marked a preference on the candidate's most recent
 2 declaration of candidacy dies less than 85 days before the primary election, the affected political party shall
 3 appoint a candidate after the primary election as provided in 13-10-327 if the candidate for that office who
 4 preferred or associated with that party was selected to advance.

5 (3) This section does not allow a political party to appoint a candidate for an office if:

6 (a) no a candidate for nomination by of that party filed did not file for the office before the primary election;

7 or

8 (b) a candidate who declared a preference for that party in a top two primary did not file for the office
 9 before the primary election."

10

11 **Section 29.** Section 13-10-327, MCA, is amended to read:

12 **"13-10-327. Vacancy after primary and prior to general election.** (1) Except as provided in 13-10-328

13 for a vacancy in the candidacy of either governor or lieutenant governor caused by the death of a candidate, if

14 a party candidate in a partisan primary or a candidate in a top two primary who marked a party preference on the

15 candidate's most recent declaration of candidacy filed with the secretary of state or election administrator dies

16 or withdraws after the primary and before the general election, the affected political party shall appoint someone

17 to replace the candidate in one of the following ways:

18 (a) For offices to be filled by the state at large, the state central committee shall make the appointment

19 as provided by the rules of the party.

20 (b) For offices to be filled in districts including more than one county, a committee appointed by the

21 county central committees of all counties in the district shall make the appointment. Procedures for the

22 appointment of the committee and making the appointment must be provided in party rules.

23 (c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment

24 must be made under rules adopted by the county central committee.

25 (2) Except as provided in this section, appointments to fill vacancies must be made no later than 76 days

26 before the election. A candidate may not officially withdraw 85 days or less before a general election. However,

27 if a candidate for partisan office dies less than 85 days before the general election, the affected political party or

28 the party for which the candidate declared a preference, as stated on the most recent declaration of candidacy

29 form filed with the secretary of state or election administrator, shall appoint a candidate within 5 days after being

30 notified of the vacancy. One of the procedures provided in 13-12-204 must be used to place the name of the

1 appointee on the ballot if necessary.

2 (3) The appointing committee shall send a certificate to the officer with whom a declaration for
3 ~~nomination of candidacy~~ for the office would be filed, with the information required on a declaration for ~~nomination~~
4 of candidacy and the name of the candidate for whom the appointee is to be substituted. The appointee shall
5 send a signed and acknowledged acceptance of the appointment and the filing fee for the office.

6 (4) The officer receiving the certificate of appointment, accompanied by a statement of acceptance and
7 the filing fee, shall certify the name of the appointee for the ballot."
8

9 **NEW SECTION.** **Section 30. Top two primary restrictions -- exceptions.** (1) If two or fewer
10 candidates in a top two primary seek advancement to the general election, those candidates shall immediately
11 advance without appearing on the primary election ballot.

12 (2) The top two primary may not be used as a process for a political party to nominate or endorse a
13 candidate for United States senator, United States representative, governor, lieutenant governor, secretary of
14 state, attorney general, state auditor, superintendent of public instruction, or the public service commission. A
15 top two primary may not be construed as a regulation of how a political party may nominate or endorse a
16 candidate. A party preference may not be used to limit the voting options available to a voter.
17

18 **Section 31.** Section 13-10-402, MCA, is amended to read:

19 "**13-10-402. Ballot.** The regular ~~party partisan~~ primary ballots ~~shall~~ must be used for the presidential
20 preference primary election. The presidential section of the ballot ~~shall~~ must be placed before any other section;
21 whether national, state, or local."
22

23 **Section 32.** Section 13-10-403, MCA, is amended to read:

24 "**13-10-403. Form of ballot.** The presidential preference ballot ~~shall~~ must list all candidates ~~nominated~~
25 in accordance with the provisions of this part and ~~shall, in addition,~~ must include a presidential ballot position
26 ~~which shall be~~ that is designated as "no preference" and a blank write-in space."
27

28 **Section 33.** Section 13-10-404, MCA, is amended to read:

29 "**13-10-404. Placement of candidate on primary ballot -- methods of qualification.** Before an
30 individual intending to qualify as a presidential candidate may qualify for placement on the ballot, the individual

1 shall qualify by one or more of the following methods:

2 (1) The individual has submitted a declaration ~~for nomination of candidacy~~ that is signed by the candidate
3 or an authorized election official to the secretary of state pursuant to 13-10-201(2) and has been nominated on
4 petitions ~~with~~ containing the verified signatures of at least 500 qualified electors. The secretary of state shall
5 prescribe the form and content of the petition.

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

10

11 **Section 34.** Section 13-10-405, MCA, is amended to read:

12 **"13-10-405. Submission and verification of petition.** Petitions ~~of nomination~~ for the presidential
13 preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the
14 election administrator of the county in which the signatures are gathered at least 1 week before the primary
15 election filing deadline prescribed in 13-10-201~~(7)(b)(8)(b)~~. A filing fee is not required. The election administrator
16 shall verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and must forward the
17 petitions to the secretary of state by the filing deadline prescribed in 13-10-201~~(7)(b)(8)(b)~~."

18

19 **Section 35.** Section 13-10-501, MCA, is amended to read:

20 **"13-10-501. Petition for ~~nomination~~ candidacy by independent candidates or political parties not**
21 **eligible to participate in partisan primary election -- form.** (1) Except as provided in 13-10-504, ~~nominations~~
22 ~~for public office~~ by an independent candidate or a candidate of a political party that does not meet the
23 requirements of 13-10-601 may ~~be made~~ seek election or selection to advance in a partisan primary by filing a
24 petition for nomination of candidacy.

25 (2) ~~The~~ A petition must contain the same information and the oath of the candidate required for a
26 declaration ~~for nomination of candidacy~~.

27 (3) If a petition is filed by a political party, it must contain the party name and, in five words or less, the
28 principle that the body represents.

29 (4) The form of the petition must be prescribed by the secretary of state, and the secretary of state shall
30 furnish sample copies to the election administrators and on request to any individual.

1 (5) Each sheet of a petition must contain signatures of electors residing in only one county."
2

3 **Section 36.** Section 13-10-503, MCA, is amended to read:

4 **"13-10-503. Filing deadlines.** (1) A petition ~~for nomination~~ of candidacy, the affidavits of circulation
5 required by 13-27-302, and the required filing fee must be filed with the same officer with whom ~~other nominations~~
6 declarations of candidacy for the office sought are filed. Petitions must be submitted, at least 1 week before the
7 deadline for filing, to the election administrator in the county where the signer resides for verification and
8 certification by the procedures provided in 13-27-303 through 13-27-306. If sufficient signatures are verified and
9 certified pursuant to 13-10-502, the county election administrator shall file the petition ~~for nomination~~ with the
10 same officer with whom ~~other nominations~~ declarations of candidacy for the office sought are filed.

11 (2) Except as provided in 13-10-504, each petition for ~~nomination~~ candidacy and the required filing fee
12 must be filed before the scheduled partisan primary election or the filing deadline for the special or general
13 election if a partisan primary election is not scheduled."
14

15 **Section 37.** Section 13-10-505, MCA, is amended to read:

16 **"13-10-505. Applicability.** The provisions of 13-10-501 through 13-10-504 ~~shall~~ may not be used to fill
17 vacancies or to nominate candidates in nonpartisan or top two primary elections ~~except for nominations to fill a~~
18 ~~vacancy as provided in 13-25-205."~~

19
20 **Section 38.** Section 13-10-507, MCA, is amended to read:

21 **"13-10-507. Independent candidates -- association with political parties not allowed.** (1) A person
22 seeking an office filled using a partisan primary as an independent candidate may not be associated with a
23 political party for 1 year prior to the submission of the person's nomination petition.

24 (2) For the purposes of subsection (1), "associated with a political party" means having run for office in
25 Montana as a partisan candidate or having held a public office in Montana or a precinct committee representative
26 office in Montana with a political party designation."
27

28 **Section 39.** Section 13-10-601, MCA, is amended to read:

29 **"13-10-601. Parties eligible for partisan primary election -- petitions by minor parties.** (1) Each
30 Except as provided in subsection (3), each political party that had a candidate for ~~a statewide office~~ president in

1 either of the last two federal general elections who received a total vote that was 5% or more of the total votes
 2 cast for the most recent successful candidate for ~~governor~~ president shall nominate its candidates for public
 3 office, except for presidential electors, by a primary election as provided in this chapter.

4 (2) (a) A political party that does not qualify to hold a primary election under subsection (1) may qualify
 5 to nominate its candidates by primary election by presenting a petition, in a form prescribed by the secretary of
 6 state, requesting the primary election.

7 (b) The petition must be signed by a number of registered voters equal to 5% or more of the total votes
 8 cast for the successful candidate for ~~governor~~ president at the last federal general election or 5,000 electors,
 9 whichever is less. The number must include the registered voters in more than one-third of the legislative districts
 10 equal to 5% or more of the total votes cast for the successful candidate for ~~governor~~ president at the last federal
 11 general election in those districts or 150 electors in those districts, whichever is less.

12 (c) At least 1 week before the deadline provided in subsection (2)(d), the petition and the affidavits of
 13 circulation required by 13-27-302 must be presented to the election administrator of the county in which the
 14 signatures were gathered to be verified under the procedures provided in 13-27-303 through 13-27-306.

15 (d) The election administrator shall forward the verified petition to the secretary of state at least 85 days
 16 before the date of the primary.

17 (3) This section does not apply to offices for which a top two primary election process is used.
 18

19 **Section 40.** Section 13-12-201, MCA, is amended to read:

20 **"13-12-201. Secretary of state to certify ballot.** (1) Seventy-five days or more before a federal general
 21 election, the secretary of state shall certify to the election administrators the name and party preference, party,
 22 or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the
 23 official records of the secretary of state's office, which must include the notification specified in 13-37-126.

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

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

1 13-10-325."

2

3 **Section 41.** Section 13-12-202, MCA, is amended to read:

4 **"13-12-202. Ballot form and uniformity.** (1) The secretary of state shall adopt statewide uniform rules
5 that prescribe the ballot form for each type of ballot used in this state. The rules must conform to the provisions
6 of this title unless the voting system used clearly requires otherwise. At a minimum, the rules must address:

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

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

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

10 (d) how unvoted ballots must be handled;

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

12 (f) the order and arrangement of voting system ballots; and

13 (g) the difference in appearance between a party preference designation and a party designation to
14 prevent the possibility of voter confusion.

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

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

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

21

22 **Section 42.** Section 13-12-203, MCA, is amended to read:

23 **"13-12-203. Appearance of candidate's name and party preference or designation on ballot.** (1)

24 (a) Subject to 13-12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain
25 other candidates, in partisan elections and in elections for offices subject to a top two primary, candidates' names
26 must appear under the title of the office sought, with the name of the candidate's party or party preference in not
27 more than three words appearing opposite or below the name.

28 (b) If a candidate in a top two primary has not declared a preference for a political party, the words "no
29 party preference" must appear on the ballot with the candidate's name.

30 (2) Subject to 13-12-202 and except as provided in subsection (3) of this section, in nonpartisan general

1 elections, the candidates' names must appear under the title of the office sought, with no description or
2 designation appearing with the name.

3 ~~(3) If unless partisan and nonpartisan offices appear on the same ballot. In such a case as partisan~~
4 candidates or candidates selected to advance in a top two primary, the names of nonpartisan candidates must
5 appear with the word "Nonpartisan".

6

7 **Section 43.** Section 13-12-205, MCA, is amended to read:

8 **"13-12-205. Arrangement of names -- rotation on ballot.** (1) The candidates' names must be arranged
9 alphabetically on the ballot according to surnames under the title of the respective offices and rotated as provided
10 in this section.

11 (2) (a) If two or more individuals are candidates for ~~nomination or election~~ to the same office, the election
12 administrator shall divide the ballot forms into sets equal in number to the greatest number of candidates for any
13 office. The candidates for ~~nomination to an office~~ by each political party must be considered separately in
14 determining the number of sets necessary for a partisan primary election.

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

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

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

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

27

28 **Section 44.** Section 13-13-214, MCA, is amended to read:

29 **"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a) Except
30 as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage

1 prepaid, to each legally registered elector and provisionally registered elector from whom the election
2 administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official
3 ballots are necessary in a manner that conforms to postal regulations to require the return rather than forwarding
4 of ballots.

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

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

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

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

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

13 and

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

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

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

17 (b) a signature envelope for the return of the ballots. The signature envelope must be self-addressed
18 by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed
19 on the back of the signature envelope.

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

23 (4) If the ballots sent to the elector are for a partisan primary election, the election administrator shall
24 enclose an extra envelope marked "For Unvoted Party Ballot(s)". This envelope may not be numbered or marked
25 in any way so that it can be identified as being used by any one elector.

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

- 1 (a) a statewide ballot issue appears on the ballot mailed to the elector; and
2 (b) the elector requests a voter information pamphlet."

3

4 **Section 45.** Section 13-13-225, MCA, is amended to read:

5 **"13-13-225. Absentee election boards -- members -- appointment.** (1) The election administrator may
6 designate and appoint absentee election boards as needed or authorize one or more election officials to serve
7 in various places to deliver ballots to electors who are entitled to vote by absentee ballot as provided in
8 13-13-229.

9 (2) In a partisan election, each absentee election board or the authorized election officials who are
10 appointed must consist of two members, one from each of the two political parties receiving the highest number
11 of votes in the state during the last preceding presidential general election, if possible. Board members and
12 authorized election officials shall reside in the county in which they serve.

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

16

17 **Section 46.** Section 13-13-241, MCA, is amended to read:

18 **"13-13-241. Examination of absentee ballot signature envelopes -- deposit of absentee and
19 unvoted ballots -- rulemaking.** (1) (a) Upon receipt of each absentee ballot signature envelope, an election
20 administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on
21 the elector's voter registration card with the signature on the signature envelope.

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

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

30 (ii) If the voter identification and eligibility information is sufficient to legally register the elector, the ballot

1 must be handled as a regular ballot.

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

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

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

9 (4) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the
10 absentee elector as provided in 13-13-245.

11 (5) If the signature on the absentee ballot signature envelope does not match the signature on the
12 absentee ballot request form or on the elector's voter registration card or if there is no signature on the absentee
13 ballot signature envelope, the election administrator shall notify the elector as provided in 13-13-245.

14 (6) If at any point there is a question concerning the validity of a particular ballot, the question must be
15 resolved as provided in 13-13-245.

16 (7) After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed
17 pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official may, in the
18 presence of a poll watcher, open the secrecy envelope and place the ballot in the proper, secured ballot box until
19 tabulation occurs on election day.

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

22 (9) The secretary of state shall develop administrative rules to establish the process and procedures to
23 be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes
24 during the early preparation period. The rules must include but are not limited to:

25 (a) the allowable distance from the observers to the judges and ballots;

26 (b) the security in the observation area;

27 (c) secrecy of votes during the preparation of the ballots; and

28 (d) security of the secured ballot boxes in storage until tabulation procedures begin on election day."
29

30 **Section 47.** Section 13-14-111, MCA, is amended to read:

1 **"13-14-111. Application of general laws.** Except as otherwise provided in this chapter, candidates for
 2 nonpartisan offices, including judicial offices, must be ~~nominated~~ and elected according to the provisions of this
 3 title."

4
 5 **Section 48.** Section 13-14-112, MCA, is amended to read:

6 **"13-14-112. Declarations for nomination of candidacy -- fee -- filing.** (1) Nonpartisan candidates shall
 7 file declarations ~~for nomination of candidacy~~ as required by the primary election laws in a form prescribed by the
 8 secretary of state except as provided in 13-14-113. A candidate may not file for more than one public office.

9 (2) Declarations may not indicate political affiliation or preference. The candidate may not state in the
 10 declaration any principles or measures that the candidate advocates or any slogans.

11 (3) Each individual filing a declaration shall pay the fee prescribed by law for the office that the individual
 12 seeks.

13 (4) Declarations must be filed:
 14 (a) in the office of the secretary of state or the appropriate election administrator as provided in
 15 13-10-201; and

16 (b) within the applicable filing period provided in 13-10-201~~(7)(a)~~(8)(a) or ~~(7)(b)~~ (8)(b) for the office that
 17 the individual seeks."

18
 19 **Section 49.** Section 13-14-113, MCA, is amended to read:

20 **"13-14-113. Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for which
 21 a salary or fees are not paid shall file with the appropriate official a petition for nomination or a declaration ~~for~~
 22 ~~nomination of candidacy~~ containing the information and the oath of the candidate required for a declaration ~~of~~
 23 ~~nomination of candidacy~~ in a form prescribed by the secretary of state.

24 (2) Petitions for nomination or declarations ~~for nomination of candidacy~~ must be filed within the applicable
 25 filing period provided in 13-10-201~~(7)(a)~~(8)(a) or ~~(7)(b)~~ (8)(b).

26 (3) A candidate may not file for more than one public office."

27
 28 **Section 50.** Section 13-14-114, MCA, is amended to read:

29 **"13-14-114. Register of candidates.** On receipt of a declaration or petition, the secretary of state or
 30 election administrator shall, if a register is kept, make an entry in the register of candidates ~~for nomination~~, on

1 a page different from entries made for partisan candidates ~~of political parties.~~"

2

3 **Section 51.** Section 13-14-115, MCA, is amended to read:

4 **"13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on**
 5 **conducting primary.** (1) The election administrators shall arrange, prepare, and distribute primary ballots for
 6 nonpartisan offices, designated "nonpartisan primary ballots". The ballots must be arranged and prepared as
 7 provided in 13-10-209 and must be without political party designation or preference.

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

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

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

14 (b) If the election administrator determines that a municipal primary election held pursuant to 13-1-107(2)
 15 must be held pursuant to subsection (2)(a) of this section for a local nonpartisan office, the election administrator
 16 shall conduct the election only for the local nonpartisan offices that have candidates filed in excess of two times
 17 the number to be elected to that office.

18 (c) If the election administrator determines that a primary election need not be held pursuant to
 19 subsection (2)(a) or (2)(b) for a local nonpartisan office, the administrator shall give notice to the governing body
 20 that a primary election will not be held for that office.

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

24

25 **Section 52.** Section 13-14-117, MCA, is amended to read:

26 **"13-14-117. Placing names on ballots for general election.** (1) Except as provided in subsection (2),
 27 candidates ~~for nomination~~ equal to twice the number to be elected at the general election who receive the highest
 28 number of votes cast at the primary ~~are the nominees for the office~~ election advance to the general election. If
 29 the number of candidates is not more than twice the number to be elected, then all candidates ~~are nominees for~~
 30 ~~the office~~ advance to the general election.

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

3

4 **Section 53.** Section 13-14-118, MCA, is amended to read:

5 **"13-14-118. Vacancies among ~~nominees~~ candidates after ~~nomination~~ primary and before general**
 6 **election.** (1) If after the primary election and before the 85th day before the general election a candidate is not
 7 able to run for the office for any reason, the vacancy must be filled by the candidate next in rank in number of
 8 votes received in the primary election.

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

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

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

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

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

18

19 **Section 54.** Section 13-15-205, MCA, is amended to read:

20 **"13-15-205. Items to be delivered to election administrator by election judges -- disposition of**
 21 **other items.** (1) Before they adjourn, the election judges shall enclose in a strong envelope or package, securely
 22 fastened:

23 (a) the precinct register;

24 (b) the list of individuals challenged;

25 (c) the pollbook;

26 (d) both of the tally sheets.

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

29 (3) The election judges shall enclose in a separate container, securely sealed, all ballots voted, including
 30 those not counted or allowed, and detached stubs from all counted or rejected absentee ballots. This envelope

1 must be endorsed on the outside "ballots voted". At the a partisan primary election the unvoted party ballots must
2 be enclosed in a separate container, securely sealed, and marked on the outside "unvoted ballots".

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

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

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

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

10

11 **Section 55.** Section 13-15-206, MCA, is amended to read:

12 **"13-15-206. Counting votes -- uniformity -- rulemaking -- definitions.** (1) When conducting vote
13 counts as provided by law, a counting board, absentee ballot counting board, or recount board shall count and
14 determine the validity of each vote in a uniform manner as provided in this section.

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

16 (a) One election judge on the board shall read the ballot while the two other judges on the board shall
17 each record on an official tally sheet the number of valid votes cast for each individual or ballot issue. Write-in
18 votes must be counted in accordance with subsection (5) and rules adopted pursuant to subsection (7). If a vote
19 has not been cast according to instructions, the vote must be considered questionable and the entire ballot must
20 be set aside and votes on the ballot must be handled as provided in subsection (4).

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

23 (ii) If the two tallies match, the judges shall record in the official results records:

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

25 (B) the offices for which individuals received votes;

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

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

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

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

- 1 (i) if a vote is recognized and counted by the system, it is a valid vote;
- 2 (ii) if a vote is not recognized and counted by the system, it is not a valid vote;
- 3 (iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).
- 4 (b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system
- 5 registers an unmarked ballot or an overvote, which must be considered a questionable vote, the entire ballot must
- 6 be set aside and the votes on the ballot must be counted as provided in subsection (4).
- 7 (c) If an election administrator or counting board has reason to believe that a voting system is not
- 8 functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.
- 9 (d) After all valid votes have been counted and totaled, the judges shall record in the official results
- 10 records the information specified in subsection (2)(b)(ii).
- 11 (4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection (2)(a) or
- 12 (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote
- 13 according to rules adopted by the secretary of state.
- 14 (ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly
- 15 determined, the vote is valid and must be counted according to the voter's intent.
- 16 (iii) If a majority of the counting board members do not agree that the voter's intent can be clearly
- 17 determined under the rules, the vote is not valid and may not be counted.
- 18 (b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting
- 19 system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be
- 20 processed by the voting system.
- 21 (5) A write-in vote may be counted only if:
- 22 (a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or
- 23 (ii) pursuant to 13-10-211(8), a declaration of ~~nomination~~ candidacy was not filed and the write-in vote
- 24 identifies an individual who is qualified for the office; and
- 25 (b) the oval, box, or other designated voting area on the ballot is marked.
- 26 (6) A vote is not valid and may not be counted if the elector's choice cannot be determined as provided
- 27 in this section.
- 28 (7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type
- 29 of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that
- 30 all votes are treated equally among jurisdictions using similar ballot types and voting systems.

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

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

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

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

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

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

10 (9) For purposes of this section, "overvote" means an elector's vote that has been interpreted by the
11 voting system as an elector casting more votes than allowable for a particular office or ballot issue."
12

13 **Section 56.** Section 13-15-208, MCA, is amended to read:

14 "**13-15-208. Determining total ~~vote~~ votes cast for all candidates for an office.** When an elector may
15 vote for two or more candidates for the same office, the total ~~vote~~ votes cast for all candidates for the office ~~is~~ are
16 the total ~~vote~~ votes cast for all candidates divided by the number of candidates officially declared ~~nominated~~ or
17 as selected to advance or as elected as shown by the official returns."
18

19 **Section 57.** Section 13-15-405, MCA, is amended to read:

20 "**13-15-405. Declaration or certification of results.** (1) The board shall declare ~~nominated~~ as selected
21 to advance or as elected the individuals having the highest number of votes cast for each county and precinct
22 office, except as provided in 13-10-204.

23 (2) The board shall proclaim the adoption or rejection of a county ballot issue.

24 (3) The board shall certify the results of the canvass of votes cast for individuals for political subdivision
25 offices and for and against political subdivision ballot issues to the governing body of each political subdivision
26 participating in the election.

27 (4) If there is a tie vote for a county office, an office of a political subdivision wholly within the county, a
28 precinct office, or a ballot issue voted on only in that county or portion of that county, the board shall certify the
29 vote to the election administrator.

30 (5) The board shall certify the results of the canvass of votes cast for justice of the peace, city judge, and

1 municipal court judge to the supreme court in order to ensure compliance with 3-1-1502 or 3-1-1503."

2

3 **Section 58.** Section 13-15-406, MCA, is amended to read:

4 **"13-15-406. Certificates to be issued by the election administrator.** The election administrator shall,
5 except as provided in 13-37-127, deliver a certificate of ~~nomination~~ selection or election to each individual
6 declared elected by the board."

7

8 **Section 59.** Section 13-15-507, MCA, is amended to read:

9 **"13-15-507. Declaration, proclamation, and certification of results.** The board shall declare
10 ~~nominated or elected~~ the individual, or individuals in a top two primary, having the highest number of votes cast
11 for each office as selected to advance or as elected, except as provided in 13-10-204. The board shall proclaim
12 the adoption or rejection of ballot issues. Certified copies of the report required in 13-15-506, the declaration of
13 ~~nominated or elected~~ individuals selected to advance or elected, the proclamation of adoption or rejection of ballot
14 issues, and the effective date of adopted ballot issues ~~shall~~ must be delivered to the governor."

15

16 **Section 60.** Section 13-16-101, MCA, is amended to read:

17 **"13-16-101. County governing body as county recount board.** (1) The county recount board must
18 consist of three members.

19 (2) Three members of the governing body must be appointed by the presiding officer if there are more
20 than three members of the governing body.

21 (3) If three members of the governing body cannot attend when the board meets, any vacant position
22 must be filled by one or more county officers chosen by the remaining members of the governing body.

23 (4) If a member of the recount board is a candidate for an office ~~or nomination~~ for which votes are to be
24 recounted, the member must be disqualified.

25 (5) The election administrator is secretary of the recount board, and the board may hire any additional
26 clerks as needed.

27 (6) The board may appoint county employees or hire clerks to assist as needed.

28 (7) If the recount is for a school election, the school recount board as provided in 20-20-420 shall perform
29 recount board duties."

30

1 **Section 61.** Section 13-16-201, MCA, is amended to read:

2 **"13-16-201. Conditions under which recount to be conducted.** (1) A recount must be conducted if:

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

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

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

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

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

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

28 (2) If the election is a school election, the petition is filed with the school election filing officer.

29 (3) When a recount is required under subsection (1)(b), (1)(d), or (1)(e), the secretary of state shall
30 immediately notify each election administrator of the filing of the petition, and a recount must be conducted in all

1 precincts in each affected county."

2

3 **Section 62.** Section 13-16-211, MCA, is amended to read:

4 **"13-16-211. Recounts allowed if bond posted to cover all costs.** (1) If a candidate for a public office
5 is defeated by a margin exceeding 1/4 of 1% but not exceeding 1/2 of 1% of the total votes cast for all candidates
6 for the same position, the candidate may, within 5 days after the official canvass, file with the officer with whom
7 the candidate's declaration of candidacy or petition for ~~nomination~~ candidacy was filed a petition stating that the
8 candidate believes a recount will change the result of the election.

9 (2) The unsuccessful candidate shall post a bond with the election administrator of the county in which
10 the candidate resides. The bond must be in an amount set by the election administrator sufficient to cover all
11 costs of the recount incurred by each county in which a recount is sought, which may include the following:

12 (a) compensation for the county recount board, the election administrator, and any additional personnel
13 needed to participate in the recount; and

14 (b) necessary supplies and travel related to the recount.

15 (3) Upon the filing of a petition and posting of a bond under this section, the county recount board, as
16 designated in 13-16-101, in each county affected shall meet and recount the ballots specified in the petition."

17

18 **Section 63.** Section 13-16-418, MCA, is amended to read:

19 **"13-16-418. Certification after recount.** (1) (a) Immediately after the recount, the county recount board
20 shall certify the result.

21 (b) At least two members of the board shall sign the certificate, and it must be attested to under seal by
22 the election administrator.

23 (c) The certificate must set forth in substance the proceedings of the board and the appearance of any
24 candidates or representatives. The certificate must adequately designate:

25 (i) each precinct recounted;

26 (ii) the vote of each precinct according to the official canvass previously made;

27 (iii) the ~~nomination, position,~~ office or question involved; and

28 (iv) the correct vote of each precinct as determined by the recount.

29 (d) When the certificate relates to a recount for a congressional office, a state or district office voted on
30 in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on

1 in more than one county, the certificate must be made in duplicate. One copy must be transmitted immediately
2 to the secretary of state by certified mail.

3 (e) (i) If the recount relates to a county, municipal, or district office voted for in only one county, other
4 than that of a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only one
5 county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing
6 the result of the recount and make a corrected abstract of the votes.

7 (ii) If the corrected abstract shows no change in the result, no further action is needed.

8 (iii) If there is a change in the result, a new certificate of selection or election ~~or nomination~~ must be
9 issued to each candidate found to be selected to advance or elected ~~or nominated~~ and the first certificate is void.
10 The individual receiving the second certificate must be selected to advance or elected ~~or nominated~~ to the office.

11 (2) (a) In the event of a school election recount, immediately after the recount, the school recount board
12 shall certify the result. At least two members of the recount board shall sign the certificate, and it must be attested
13 to under seal by the school election administrator.

14 (b) The certificate must adequately designate:

15 (i) the vote of the district according to the official canvass previously made;

16 (ii) the position or question involved; and

17 (iii) the correct vote of the district as determined by the recount.

18 (c) The school recount board shall immediately recanvass the returns as corrected by the certificate
19 showing the result of the recount and make a corrected abstract of the votes. If the corrected abstract shows no
20 change in the result, no further action is needed. If there is a change in the result, a new certificate of election
21 must be issued to each candidate found to be elected and the first certificate is void. The individual receiving the
22 second certificate must be elected to the office."
23

24 **Section 64.** Section 13-16-419, MCA, is amended to read:

25 **"13-16-419. Recount by board of state canvassers.** (1) When the secretary of state receives
26 certificates from all county recount boards, the secretary of state shall file them, shall fix a time and place, as soon
27 as possible, for reconvening the board of state canvassers, and shall notify the members.

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

- 1 (3) (a) If the corrected abstract shows no change in the results, further action may not be taken.
- 2 (b) If there is a change in the results, the first certificate is void and a new certificate of selection to
 3 advance or election or nomination must be issued in the same manner as the certificate of selection to advance
 4 or election or nomination was previously issued ~~to each candidate elected or nominated.~~"

5

6 **Section 65.** Section 13-16-501, MCA, is amended to read:

7 **"13-16-501. Tie vote after recount.** (1) If the recount after a primary election shows a tie vote for any
 8 office ~~and it cannot be determined who has been nominated by the primary election~~, the election officer with
 9 whom the candidates' ~~nominating~~ declarations of candidacy or petitions were filed shall determine by lot which
 10 ~~candidate shall be nominated~~ candidates advance to the general election. Written notice of the time and place
 11 of the drawing shall must be given to each candidate involved.

- 12 (2) If the recount after a general election shows a tie vote ~~and it cannot be determined who has been~~
 13 ~~elected~~, the office or position shall must be filled as provided by 13-16-502 through 13-16-506."

14

15 **Section 66.** Section 13-17-103, MCA, is amended to read:

16 **"13-17-103. Required specifications for voting systems.** (1) A voting system may not be approved
 17 under 13-17-101 unless the voting system:

- 18 (a) allows an elector to vote in secrecy;
- 19 (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- 20 (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;
- 21 (d) allows an elector to vote only for the candidates of the party selected by the elector in ~~the~~ a partisan
 22 primary election;
- 23 (e) allows an elector to vote a split ticket in a general election if the elector desires;
- 24 (f) allows each valid vote cast to be registered and recorded within the performance standards adopted
 25 pursuant to subsection (2);
- 26 (g) is protected from tampering for a fraudulent purpose;
- 27 (h) prevents an individual from seeing or knowing the number of votes registered for any candidate or
 28 on any ballot issue during the progress of voting;
- 29 (i) allows write-in voting;
- 30 (j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and

1 technical assistance will be provided to election officials under the contract for purchase of the voting system;
 2 (k) uses a paper ballot that allows votes to be manually counted; and
 3 (l) allows auditors to access and monitor any software program while it is running on the system to
 4 determine whether the software is running properly.
 5 (2) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting a
 6 benchmark performance standard that must be met in tests by each voting system prior to approval under
 7 13-17-101. The standard must be based on commonly accepted industry standards for readily available
 8 technologies."

9
 10 **Section 67.** Section 13-25-201, MCA, is amended to read:
 11 **"13-25-201. Election of United States senators and representatives.** (1) United States senators and
 12 representatives ~~shall~~ must be elected at the general election preceding commencement of the term to be filled.
 13 (2) ~~Nominations and elections shall~~ Elections must be as provided by law for governor."

14
 15 **Section 68.** Section 13-25-205, MCA, is amended to read:
 16 **"13-25-205. Nominations for special Special election for United States representative.** (1) When
 17 a special election is ordered to fill a vacancy in the office of United States representative, ~~each political party shall~~
 18 ~~choose a candidate according to the rules of the party~~ a special primary election to narrow the number of
 19 candidates to the top two must be conducted prior to the special election. ~~Nominations by parties must be made~~
 20 ~~no later than 85 days before the date set for the election.~~
 21 (2) ~~Nominating petitions~~ Declaration of candidacy may be filed by ~~independent candidates~~ for the office
 22 up to 5 p.m. of the 85th day before the special primary election."

23
 24 **Section 69.** Section 13-35-106, MCA, is amended to read:
 25 **"13-35-106. Ineligibility to hold office because of conviction.** In addition to all other penalties
 26 prescribed by law:
 27 (1) a candidate who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible
 28 to be a candidate for any public office in the state of Montana until final discharge from state supervision;
 29 (2) a campaign treasurer who is convicted of violating any provision of this title, except 13-35-207(9),
 30 is ineligible to be a candidate for any public office or to hold the position of campaign treasurer in any campaign

1 in the state of Montana until final discharge from state supervision;
2 (3) if an elected official or a candidate is adjudicated to have violated any provision of this title, except
3 13-35-207(9), the individual must be removed from ~~nomination~~ candidacy or office, ~~as the case may be, even~~
4 ~~though the individual was regularly nominated or elected."~~

5
6 **Section 70.** Section 13-35-205, MCA, is amended to read:
7 **"13-35-205. Tampering with election records and information.** A person is guilty of tampering with
8 public records or information and is punishable as provided in 45-7-208 whenever the person:

- 9 (1) suppresses any declaration of candidacy or certificate of ~~nomination~~ selection that has been filed;
10 (2) purposely causes a vote to be incorrectly recorded as to the candidate or ballot issue voted on;
11 (3) in an election return, knowingly adds to or subtracts from the votes actually cast at the election;
12 (4) changes any ballot after it has been completed by the elector;
13 (5) adds a ballot to those legally polled at an election, either before or after the ballots have been
14 counted, with the purpose of changing the result of the election;
15 (6) causes a name to be placed on the registry lists other than in the manner provided by this title; or
16 (7) changes a poll list or checklist."

17
18 **Section 71.** Section 13-35-206, MCA, is amended to read:
19 **"13-35-206. Injury to election equipment, materials, and records.** A person is guilty of criminal
20 mischief or tampering with public records and information, as appropriate, and is punishable as provided in
21 45-6-101 or 45-7-208, as applicable, whenever the person:

- 22 (1) prior to or on election day, knowingly defaces or destroys any list of candidates posted in accordance
23 with the provisions of the law;
24 (2) during an election:
25 (a) removes or defaces instructions for the voters; or
26 (b) removes or destroys any of the supplies or other conveniences placed in the voting station for the
27 purpose of enabling a voter to prepare the voter's ballot;
28 (3) removes any ballots from the polling place before the closing of the polls with the purpose of changing
29 the result of the election;
30 (4) carries away or destroys any poll lists, checklists, ballots, ballot boxes, or other equipment for the

- 1 purpose of disrupting or invalidating an election;
- 2 (5) knowingly detains, mutilates, alters, or destroys any election returns;
- 3 (6) mutilates, secretes, destroys, or alters election records, except as provided by law;
- 4 (7) tampers with, disarranges, defaces, injures, or impairs a voting system with the intent to alter the
- 5 outcome of an election;
- 6 (8) mutilates, injures, or destroys a ballot or appliance used in connection with a voting system; or
- 7 (9) fraudulently defaces or destroys a declaration of candidacy or certificate of ~~nomination~~ selection."

8

9 **Section 72.** Section 13-35-207, MCA, is amended to read:

10 **"13-35-207. Deceptive election practices.** A person is guilty of false swearing, unsworn falsification,

11 or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202,

12 45-7-203, or 45-7-208, as applicable, whenever the person:

- 13 (1) falsely represents the person's name or other information required upon the person's registry card
- 14 and causes registration with the card;
- 15 (2) signs a registry card knowingly witnessing any false or misleading statement;
- 16 (3) knowingly causes a false statement, certificate, or return of any kind to be signed;
- 17 (4) falsely makes a declaration of candidacy or certificate of ~~nomination~~ selection;
- 18 (5) files or receives for filing a declaration of candidacy or certificate of ~~nomination~~ selection knowing that
- 19 all or part of the declaration or certificate is false;
- 20 (6) forges or falsely makes the official endorsement of a ballot;
- 21 (7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality,
- 22 or ward where no election was in fact held;
- 23 (8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a
- 24 precinct, municipality, or ward where an election was held;
- 25 (9) signs a name other than the person's own to a petition, signs more than once for the same ballot
- 26 issue, or signs a petition while not being a qualified elector of the state; or
- 27 (10) makes a false oath or affidavit where an oath or affidavit is required by law."

28

29 **Section 73.** Section 13-35-214, MCA, is amended to read:

30 **"13-35-214. Illegal influence of voters.** A person may not knowingly or purposely, directly or indirectly,

1 individually or through any other person, for any election, in order to induce any elector to vote or refrain from
 2 voting or to vote for or against any particular candidate, candidates of or associating with any political party ticket,
 3 or ballot issue:

4 (1) give, lend, agree to give or lend, offer, or promise any money, liquor, or valuable consideration or
 5 promise or endeavor to procure any money, liquor, or valuable consideration; or

6 (2) promise to appoint another person or promise to secure or aid in securing the appointment;
 7 ~~nomination~~, or election of another person to a public or private position or employment or to a position of honor,
 8 trust, or emolument in order to aid or promote the candidate's ~~nomination~~ or election, except that the candidate
 9 for governor may publicly announce or define the candidate's choice for lieutenant governor."
 10

11 **Section 74.** Section 13-35-218, MCA, is amended to read:

12 **"13-35-218. Coercion or undue influence of voters.** (1) A person, directly or indirectly, individually or
 13 through any other person, in order to induce or compel a person to vote or refrain from voting for any candidate,
 14 ~~the ticket of~~ any candidates of or associating with any political party, or any ballot issue before the people, may
 15 not:

16 (a) use or threaten to use any force, coercion, violence, restraint, or undue influence against any person;
 17 or

18 (b) inflict or threaten to inflict, individually or with any other person, any temporal or spiritual injury,
 19 damage, harm, or loss upon or against any person.

20 (2) A person may not, by abduction, duress, or any fraudulent contrivance, impede or prevent the free
 21 exercise of the franchise by any voter at any election or compel, induce, or prevail upon any elector to give or to
 22 refrain from giving the elector's vote at any election.

23 (3) A person may not, in any manner, interfere with a voter lawfully exercising the right to vote at an
 24 election in order to prevent the election from being fairly held and lawfully conducted.

25 (4) A person on election day may not obstruct the doors or entries of any polling place or engage in any
 26 solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any way
 27 interferes with the election process or obstructs the access of voters to or from the polling place."
 28

29 **Section 75.** Section 13-35-221, MCA, is amended to read:

30 **"13-35-221. Improper nominations candidacy.** (1) A person may not pay or promise valuable

1 consideration to another, in any manner or form, for the purpose of inducing the other person to be or to refrain
 2 from or to cease being a candidate, and a person may not solicit or receive any payment or promise from another
 3 for that purpose.

4 (2) A person, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in subsection
 5 (1), may not:

6 (a) be ~~nominated~~ selected to advance or refuse to be ~~nominated as a candidate~~ selected to advance
 7 at an election;

8 (b) become, individually or in combination with any other person ~~or persons~~, a candidate for the purpose
 9 of defeating the ~~nomination~~ candidacy or election of any other person, without a bona fide intent to obtain the
 10 office; or

11 (c) withdraw if the person has been ~~nominated~~ selected to advance.

12 (3) Upon complaint made to any district court, the judge shall issue a writ of injunction restraining the
 13 officer whose duty it is to prepare official ballots for a ~~nominating~~ primary election from placing the name of a
 14 person on the ballot as a candidate for ~~nomination~~ election to any office if the judge is convinced that:

15 (a) the person ~~has sought the nomination or~~ seeks to have the person's name presented to the voters
 16 as a candidate for ~~nomination by any political party~~ selection to advance to the general election for any mercenary
 17 or venal consideration or motive; and

18 (b) the person's candidacy ~~for the nomination~~ is not in good faith."
 19

20 **Section 76.** Section 13-35-225, MCA, is amended to read:

21 **"13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty.**

22 (1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through
 23 any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill,
 24 bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously
 25 include the attribution "paid for by" followed by the name and address of the person who made or financed the
 26 expenditure for the communication. The attribution must contain:

27 (a) for election material financed by a candidate or a candidate's campaign finances, the name and the
 28 address of the candidate or the candidate's campaign; and

29 (b) for election material financed by a political committee, the name of the committee, the name of the
 30 committee treasurer, and the address of the committee or the committee treasurer.

1 (2) (a) Communications in a partisan election financed by a candidate or a political committee organized
2 on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

3 (b) Communications in a top two primary financed by a candidate or political committee organized on
4 the candidate's behalf must state the candidate's party preference, if one was filed on the declaration of
5 candidacy, with the word "preference" after the party or must include the party symbol and state that it is a
6 candidate's party preference only.

7 (3) (a) Printed election material described in subsection (1) that includes information about another
8 candidate's voting record must include the following:

- 9 (i) a reference to the particular vote or votes upon which the information is based;
10 (ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if the
11 contrasting votes were made in any of the previous 6 years; and
12 (iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the
13 statements made about the other candidate's voting record are accurate and true.

14 (b) The statement required under subsection (3)(a) must be signed:

- 15 (i) by the candidate if the election material was prepared for the candidate or the candidate's political
16 committee and includes information about another candidate's voting record; or
17 (ii) by the person financing the communication or the person's legal agent if the election material was not
18 prepared for a candidate or a candidate's political committee.

19 (4) If a document or other article of advertising is too small for the requirements of subsections (1)
20 through (3) to be conveniently included, the candidate responsible for the material or the person financing the
21 communication shall file a copy of the article with the commissioner of political practices, together with the
22 required information or statement, at the time of its public distribution.

23 (5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or
24 notification about the omission, the candidate responsible for the material or the person financing the
25 communication shall:

- 26 (a) file notification of the omission with the commissioner of political practices within 5 days of the
27 discovery or notification;
28 (b) bring the material into compliance with subsections (1) through (3); and
29 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible.
30 (6) Whenever the commissioner receives a complaint alleging a violation of subsection (1) or (2), the

1 commissioner shall as soon as practicable assess the merits of the complaint.

2 (7) (a) If the commissioner determines that the complaint has merit, the commissioner shall notify the
3 complainant and the candidate or political committee of the commissioner's determination. The notice must state
4 that the candidate or political committee shall bring the material into compliance as required under this section:

5 (i) within 5 days after receiving the notification if the notification occurs more than 7 days prior to an
6 election; or

7 (ii) within 24 hours after receiving the notification if the notification occurs 7 days or less prior to an
8 election.

9 (b) When notifying the candidate or campaign committee under subsection (7)(a), the commissioner shall
10 include a statement that if the candidate or political committee fails to bring the material into compliance as
11 required under this section, the candidate or political committee is subject to a civil penalty pursuant to
12 13-37-128."

13

14 **Section 77.** Section 13-35-226, MCA, is amended to read:

15 **"13-35-226. Unlawful acts of employers and employees.** (1) It is unlawful for any employer, in paying
16 employees the salary or wages due them, to include with their pay the name of any candidate or any political
17 mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to
18 influence the political opinions or actions of the employees.

19 (2) It is unlawful for an employer to exhibit in a place where the employer's workers or employees may
20 be working any handbill or placard containing:

21 (a) any threat, promise, notice, or information that, in case any particular ticket or political party,
22 organization, or candidate is elected:

23 (i) work in the employer's place or establishment will cease, in whole or in part, or will be continued or
24 increased;

25 (ii) the employer's place or establishment will be closed; or

26 (iii) the salaries or wages of the workers or employees will be reduced or increased; or

27 (b) other threats or promises, express or implied, intended or calculated to influence the political opinions
28 or actions of the employer's workers or employees.

29 (3) A person may not coerce, command, or require a public employee to support or oppose any political
30 committee, ~~the nomination or~~ election of any person to public office, or the passage of a ballot issue.

1 (4) A public employee may not solicit support for or opposition to any political committee, ~~the nomination~~
 2 ~~or~~ election of any person to public office, or the passage of a ballot issue while on the job or at the place of
 3 employment. However, subject to 2-2-121, this section does not restrict the right of a public employee to perform
 4 activities properly incidental to another activity required or authorized by law or to express personal political views.

5 (5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by the
 6 commissioner of political practices or a county attorney pursuant to 13-37-124 and 13-37-125."
 7

8 **Section 78.** Section 13-36-101, MCA, is amended to read:

9 **"13-36-101. Grounds for contest of ~~nomination or~~ election to public office.** An elector may contest
 10 ~~the right of any person to any nomination or~~ person's election to public office or selection to advance for which
 11 the elector has the right to vote if the elector believes that:

12 (1) a deliberate, serious, and material violation of any provision of the law relating to ~~nominations or~~
 13 elections or selections to advance has occurred;

14 (2) the person was not, at the time of the election, eligible to be a candidate for the office;

15 (3) votes were cast illegally or were counted or canvassed in an erroneous or fraudulent manner."
 16

17 **Section 79.** Section 13-36-102, MCA, is amended to read:

18 **"13-36-102. Time for commencing contest.** (1) Five days or less after a candidate has been certified
 19 as ~~nominated~~ selected to advance, a person wishing to contest the ~~nomination to~~ selection to advance for any
 20 public office shall give notice in writing to the candidate whose ~~nomination~~ selection the person intends to contest,
 21 briefly stating the cause for the contest. The contestant shall make application to the district court in the county
 22 where the contest is to be had. The judge shall then set the time for the hearing. The contestant shall serve notice
 23 3 days before the hearing is scheduled. The notice must state the time and place of the hearing.

24 (2) Any action to contest the right of a candidate to be declared elected to an office or to annul and set
 25 aside the election or to remove from or deprive any person of an office of which the person is the incumbent for
 26 any offense mentioned in this title must, unless a different time is stated, be commenced within 1 year after the
 27 day of election at which the offense was committed."
 28

29 **Section 80.** Section 13-36-103, MCA, is amended to read:

30 **"13-36-103. Court having jurisdiction of proceedings.** An application for filing a statement, payment

1 of a claim, or correction of an error or false recital in a filed statement or an action or proceeding to annul and set
 2 aside the election of any person declared elected to an office or to remove or deprive any person of the person's
 3 office for an offense mentioned in this title or any petition to excuse any person or candidate in accordance with
 4 the power of the court to excuse, as provided in 13-36-209, must be made or filed in the district court of the county
 5 in which the certificate, declaration, or acceptance of the person's ~~nomination as a candidate~~ selection to advance
 6 for the office ~~to which the person is declared nominated or elected~~ is filed or in which the incumbent resides."

7

8 **Section 81.** Section 13-36-104, MCA, is amended to read:

9 **"13-36-104. Nomination Primary election contests.** In the case of ~~nomination~~ primary election
 10 contests, the judge of the district court shall hear and determine the case and make all necessary orders for the
 11 trial of the case and carrying the judgment into effect. The order of the judge must express the will of a majority
 12 of the legal voters or the legal voters of the political party for a partisan primary, as indicated by their votes,
 13 disregarding technicalities or errors in spelling. Each party or candidate in a top two primary is entitled to
 14 subpoenas. The registrar shall issue a certificate to the person declared ~~nominated~~ by the court to have been
 15 selected to advance. The certificate is conclusive evidence of the right of the person to ~~hold the nomination~~
 16 selection to advance."

17

18 **Section 82.** Section 13-36-201, MCA, is amended to read:

19 **"13-36-201. Contents of contest petition.** Any petition contesting the right of any person to a
 20 ~~nomination~~ selection to advance or to election must set forth the name of every person whose election is
 21 contested and the grounds of the contest. The petition may not be amended unless the amendment is authorized
 22 by a court."

23

24 **Section 83.** Section 13-36-202, MCA, is amended to read:

25 **"13-36-202. Reception of illegal votes -- allegations and evidence.** When the reception of illegal votes
 26 is alleged as a cause of contest, it is sufficient to state generally that in one or more specified voting precincts
 27 illegal votes were given to the candidate whose ~~nomination~~ selection to advance or election is contested that, if
 28 taken from the candidate, will reduce the number of the candidate's legal votes below the number of legal votes
 29 given to some other candidate for the same office. Testimony may not be received of any illegal votes unless the
 30 party contesting the election delivers to the opposite party, at least 3 days before trial, a written list of the number

1 of illegal votes and by whom given that the party intends to prove at trial. This provision may not prevent the
 2 contestant from offering evidence of illegal votes not included in the statement if the contestant did not know and
 3 by reasonable diligence was unable to learn of the additional illegal votes and by whom they were given before
 4 delivering the written list."

5

6 **Section 84.** Section 13-36-203, MCA, is amended to read:

7 **"13-36-203. Form of complaint.** (1) A petition or complaint filed under the provisions of this chapter is
 8 sufficient if it is in substantially the following form:

9

In the District Court of the

10

.... Judicial District,

11

for the County of, State of Montana.

12

A B (or A B and C D), Contestants,

13

vs.

14

E F, Contestee.

15

The petition of the contestant (or contestants) named above alleges:

16

That an election was held (in the state, district, county, or city of), on the day of, 20..., for the
 17 (nomination of a candidate for) (or election of a) (state the office).

18

That and were candidates at the election and the board of canvassers has returned as being
 19 ~~nominated~~ selected to advance to the general election (or elected) ~~at the election~~.

20

That contestant A B voted (or had a right to vote, as the case may be) at the election (or claims to have
 21 had a right to be ~~returned as the nominee~~ selected to advance or ~~officer~~ elected or ~~nominated at the election~~ or
 22 was a candidate at the election, as the case may be) and that contestant C D (here state in a similar manner the
 23 right of each contestant).

24

The contestant (or contestants) further allege (here state the facts and grounds on which the contestants
 25 rely).

26

The contestants ask that it be determined by the court that.... was not ~~nominated~~ selected to advance
 27 (or elected) and that the election was void or that A B or C D, as the case may be, was ~~nominated~~ selected to
 28 advance (or elected) and ask for other relief that the court may find appropriate.

29

(2) The complaint must be verified by the affidavit of one of the petitioners in the manner required by law
 30 for the verification of complaints in civil cases."

1

2 **Section 85.** Section 13-36-206, MCA, is amended to read:

3 **"13-36-206. Notice of filing -- prompt hearing.** On the filing of a petition under this part, the clerk shall
4 immediately notify the judge of the court and issue a citation to the person whose ~~nomination~~ selection to advance
5 or office is contested, citing the person to appear and answer not less than 3 or more than 7 days after the date
6 of filing the petition. The court shall hear the cause, and the contest must take precedence over all other business
7 on the court docket and must be tried and disposed of with all convenient dispatch. The court is always
8 considered to be in session for the trial of contest cases."

9

10 **Section 86.** Section 13-36-207, MCA, is amended to read:

11 **"13-36-207. Hearing of contest.** The petitioner (contestant) and the contestee may appear and produce
12 evidence at the hearing, but ~~no~~ a person other than the petitioner and contestee may not be made a party to the
13 proceedings on the petition and ~~no~~ a person other than the parties and their attorneys may not be heard except
14 by order of the court. If more than one petition is pending or the election of more than one person is contested,
15 the court may in its discretion order the cases to be heard together and may apportion the costs, disbursements,
16 and attorney fees between the parties and shall finally determine all questions of law and fact, except that the
17 judge may impanel a jury to decide on questions of fact. In the case of ~~nominations or elections or selections to~~
18 advance other than for federal congressional offices, the court shall immediately certify its decision to the
19 governing body or official issuing certificates of ~~nomination~~ selection or election and the governing body or official
20 shall issue certificates of ~~nomination~~ selection or election to the person or persons entitled to the certificates by
21 the court's decision. If judgment of ouster against a defendant is rendered, the ~~nomination~~ selection to advance
22 or office must be declared vacant by the judgment, except as provided in 13-36-212, and must be filled by a new
23 election or by appointment as may be provided by law regarding vacancies in the ~~nomination~~ candidacy or office."

24

25 **Section 87.** Section 13-36-209, MCA, is amended to read:

26 **"13-36-209. Forfeiture of ~~nomination~~ election or office for violation of law -- when inappropriate.**
27 Upon the trial of any action or proceeding under the provisions of this title to contest the right of any person to
28 be declared ~~nominated~~ selected to advance or elected to any office or to annul or set aside a ~~nomination or~~
29 primary or general election result or to remove a person from office, the ~~nomination or~~ selection to advance or
30 election of the candidate is not void by reason of the offense or omission complained of ~~void~~ and the candidate

1 may not be removed from or deprived of office if under the circumstances it seems to the court to be unjust that
 2 the candidate forfeit a ~~nomination~~ the selection to advance or office or be deprived of any office of which the
 3 candidate is the incumbent. The decision of the court must be based upon the following:

4 (1) it appears from the evidence that the offense complained of was not committed by the candidate or
 5 with the candidate's knowledge or consent or was committed without the candidate's sanction or connivance and
 6 that all reasonable means for preventing the commission of the offense at the election were taken by and on
 7 behalf of the candidate;

8 (2) the offense or offenses complained of were trivial, unimportant, and limited in character and in all
 9 other respects the candidate's participation in the election was free from offenses or illegal acts; or

10 (3) any act or omission of the candidate arose from inadvertence or from accidental miscalculation or
 11 from some other reasonable cause of a like nature and in any case did not arise from any lack of good faith."

12

13 **Section 88.** Section 13-36-210, MCA, is amended to read:

14 "**13-36-210. Punishment.** If, upon the trial of any action or proceeding under the provisions of this title
 15 to contest the right of any person to be declared to be ~~nominated to an office or~~ selected to advance or elected
 16 to an office or to annul and set aside the election or to remove any person from office, it appears that the person
 17 was guilty of any corrupt practice, illegal act, or undue influence ~~in or about the nomination~~ regarding the selection
 18 to advance or election, the person must be punished by being deprived of the ~~nomination~~ selection to advance
 19 or office and the vacancy must be filled in the manner provided by law. The only exceptions to this judgment are
 20 those provided in 13-36-209. The judgment does not prevent the candidate or officer from being proceeded
 21 against by indictment or criminal information for any act or acts."

22

23 **Section 89.** Section 13-36-211, MCA, is amended to read:

24 "**13-36-211. When ~~nomination~~ selection to advance or election not to be vacated.** The ground of
 25 contest specified in 13-36-101(3) may not be construed to authorize ~~a nomination or~~ the results of a primary or
 26 general election to be set aside on account of illegal votes unless it appears:

27 (1) that the candidate ~~or nominee~~ whose right is contested had knowledge of or connived in the illegal
 28 votes; or

29 (2) that the number of illegal votes given to the ~~person whose right to the nomination or office~~ candidate
 30 whose right is contested, if taken from the ~~person~~ candidate, would reduce the number of legal votes for the

1 person below the number of votes given to some other person for the same ~~nomination~~ selection to advance or
2 office, after deducting the illegal votes that may be shown to have been given to the other person."
3

4 **Section 90.** Section 13-36-212, MCA, is amended to read:

5 **"13-36-212. Declaration of result of election after rejection of illegal votes.** If, in any case of a
6 contest on the ~~ground~~ grounds of illegal votes, it appears that a person other than the one returned has the
7 highest number of legal votes after the illegal votes have been eliminated, the court ~~must~~ shall declare ~~such the~~
8 person ~~nominated~~ selected to advance or elected, as the case may be."
9

10 **Section 91.** Section 13-37-127, MCA, is amended to read:

11 **"13-37-127. Withholding of certificates of ~~nomination~~ or election.** (1) A certificate of election may
12 not be granted to any candidate until the candidate or the candidate's treasurer has filed the reports and
13 statements that must be filed pursuant to the provisions of this chapter. A candidate for an elective office may not
14 assume the powers and duties of that office until the candidate has received a certificate of election as provided
15 by law. A certificate of election may only be issued by the public official responsible for issuing a certificate or
16 commission of election.

17 (2) In carrying out the mandate of this section, the commissioner must, by written statement, notify the
18 public official responsible for issuing a certificate of ~~nomination~~ selection or election that a candidate or the
19 candidate's treasurer has complied with the provisions of this chapter as described in subsection (1) and that a
20 certificate of ~~nomination~~ selection or election may be issued."
21

22 **Section 92.** Section 13-37-216, MCA, is amended to read:

23 **"13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided for
24 in subsection (4) and subject to 13-37-219, aggregate contributions for each election in a campaign by a political
25 committee or by an individual, other than the candidate, to a candidate are limited as follows:

26 (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;

27 (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for
28 governor and lieutenant governor, not to exceed \$250;

29 (iii) for a candidate for any other public office, not to exceed \$130.

30 (b) A contribution to a candidate includes contributions made to the candidate's committee and to any

1 political committee organized on the candidate's behalf.

2 (2) (a) A political committee that is not independent of the candidate is considered to be organized on
3 the candidate's behalf. For the purposes of this section, an independent committee means a committee that is
4 not specifically organized on behalf of a particular candidate or that is not controlled either directly or indirectly
5 by a candidate or candidate's committee and that does not act jointly with a candidate or candidate's committee
6 in conjunction with the making of expenditures or accepting contributions.

7 (b) A leadership political committee maintained by a political officeholder is considered to be organized
8 on the political officeholder's behalf.

9 (3) All political committees except those of political party organizations are subject to the provisions of
10 subsections (1) and (2). For purposes of this subsection, "political party organization" means any political
11 organization that was represented on the official ballot at the most recent ~~gubernatorial~~ presidential election.
12 Political party organizations may form political committees that are subject to the following aggregate limitations,
13 adjusted as provided for in subsection (4) and subject to 13-37-219, from all political party committees:

14 (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;

15 (b) for a candidate to be elected for state office in a statewide election, other than the candidates for
16 governor and lieutenant governor, not to exceed \$6,500;

17 (c) for a candidate for public service commissioner, not to exceed \$2,600;

18 (d) for a candidate for the state senate, not to exceed \$1,050;

19 (e) for a candidate for any other public office, not to exceed \$650.

20 (4) (a) The commissioner shall adjust the limitations in subsections (1) and (3) by multiplying each limit
21 by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to the
22 year in which a general election is held by the consumer price index for June 2002.

23 (b) The resulting figure must be rounded up or down to the nearest:

24 (i) \$10 increment for the limits established in subsection (1); and

25 (ii) \$50 increment for the limits established in subsection (3).

26 (c) The commissioner shall publish the revised limitations as a rule.

27 (5) A candidate may not accept any contributions, including in-kind contributions, in excess of the limits
28 in this section.

29 (6) For purposes of this section, "election" means the general election or a primary election that involves
30 two or more candidates for the same ~~nomination~~ office. If there is not a contested primary, there is only one

1 election to which the contribution limits apply. If there is a contested primary, then there are two elections to which
2 the contribution limits apply."

3

4 **Section 93.** Section 13-37-218, MCA, is amended to read:

5 **"13-37-218. Limitations on receipts from political committees.** A candidate for the state senate may
6 receive no more than \$2,150 in total combined monetary contributions from all political committees contributing
7 to the candidate's campaign, and a candidate for the state house of representatives may receive no more than
8 \$1,300 in total combined monetary contributions from all political committees contributing to the candidate's
9 campaign. The limitations in this section must be multiplied by an inflation factor, which is determined by dividing
10 the consumer price index for June of the year prior to the year in which a general election is held by the consumer
11 price index for June 2003. The resulting figure must be rounded up or down to the nearest \$50 increment. The
12 commissioner shall publish the revised limitations as a rule. In-kind contributions must be included in computing
13 these limitation totals. The limitation provided in this section does not apply to contributions made by a political
14 party ~~eligible for that held a presidential primary election under 13-10-601~~ during the last presidential primary
15 cycle."

16

17 **Section 94.** Section 13-38-101, MCA, is amended to read:

18 **"13-38-101. Powers of parties.** Each political party may:

- 19 (1) make its own rules;
- 20 (2) provide for and select its own offices;
- 21 (3) call conventions and provide for the number and qualification of delegates;
- 22 (4) adopt platforms;
- 23 (5) provide for selection of delegates to national conventions;
- 24 (6) provide for the nomination of presidential electors;
- 25 (7) provide for the selection of national committee representatives;
- 26 (8) ~~make nominations to fill vacancies occurring among its candidates nominated for offices to be filled~~
27 by the state at large or by any district consisting of more than one county partisan primary or among candidates
28 for an office to be filled by a top two primary who chose to state their party preference or association on their most
29 recent declaration of candidacy where the vacancies are caused by death, resignation, or removal from the
30 electoral district;

1 (9) perform all other functions inherent in a party organization."
2

3 **Section 95.** Section 13-38-201, MCA, is amended to read:

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

8 (2) An elector may be placed in nomination for precinct committee representative by a declaration of
9 ~~nomination~~ candidacy, signed by the elector, notarized, and filed in the office of the county election administrator
10 within the time for filing declarations ~~naming candidates for nomination at~~ of candidacy for the regular biennial
11 primary election.

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

15 (4) If the number of candidates nominated for a party's precinct committee representatives is less than
16 or equal to the number of positions to be elected, the election administrator may give notice that a party's precinct
17 committee election will not be held in that precinct.

18 (5) If a party precinct committee election is not held pursuant to subsection (4), the election administrator
19 shall declare elected by acclamation the candidate who filed for the position or who filed a declaration of intent
20 to be a write-in candidate. The election administrator shall issue a certificate of election to the designated party.

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

24 (7) In the case of a tie vote for a precinct committee representative position, the county central committee
25 shall determine a winner.

26 (8) Pursuant to 13-38-101, a vacancy in a precinct committee representative position must be filled by
27 the party governing body as provided in its rules."
28

29 **NEW SECTION. Section 96. Sections amended by referendum.** The following sections of the
30 Montana Code Annotated are amended by this referendum:

- 1 2-16-615. Filing of recall petitions -- mandamus for refusal.
- 2 7-2-2219. Conduct of election.
- 3 7-3-176. Election of commission members.
- 4 7-3-218. Selection of commission members.
- 5 7-3-313. Selection of commission members.
- 6 7-3-412. Selection of commission members.
- 7 7-3-512. Selection of commission members.
- 8 7-3-704. Legislative body.
- 9 7-3-1256. Appointive officers not to seek other office.
- 10 7-4-2106. Vacancy on board of county commissioners -- resigning member not to participate in filling
- 11 pending vacancy.
- 12 7-4-2206. Vacancies -- appointment of interim officer.
- 13 7-4-2302. Petition for consolidation of county offices.
- 14 7-4-2310. Order for consolidation of offices.
- 15 7-4-4112. Filling of vacancy.
- 16 13-1-101. Definitions.
- 17 13-1-103. Determination of winner.
- 18 13-4-102. Manner of choosing election judges.
- 19 13-10-201. Declaration for nomination -- term limitations.
- 20 13-10-203. Indigent candidates.
- 21 13-10-204. Write-in nominations.
- 22 13-10-209. Arrangement and preparing of primary ballots.
- 23 13-10-211. Declaration of intent for write-in candidates.
- 24 13-10-301. Casting of ballot.
- 25 13-10-302. Write-in votes for previously nominated candidates.
- 26 13-10-303. Nominations by more than one party.
- 27 13-10-311. Election judges' duties when preparing for count.
- 28 13-10-325. Withdrawal from nomination.
- 29 13-10-326. Vacancy prior to primary election.
- 30 13-10-327. Vacancy after primary and prior to general election.

- 1 13-10-402. Ballot.
- 2 13-10-403. Form of ballot.
- 3 13-10-404. Placement of candidate on primary ballot -- methods of qualification.
- 4 13-10-405. Submission and verification of petition.
- 5 13-10-501. Petition for nomination by independent candidates or political parties not eligible to participate
- 6 in primary election.
- 7 13-10-503. Filing deadlines.
- 8 13-10-505. Applicability.
- 9 13-10-507. Independent candidates -- association with political parties not allowed.
- 10 13-10-601. Parties eligible for primary election -- petitions by minor parties.
- 11 13-12-201. Secretary of state to certify ballot.
- 12 13-12-202. Ballot form and uniformity.
- 13 13-12-203. Appearance of candidate's name and party designation on ballot.
- 14 13-12-205. Arrangement of names -- rotation on ballot.
- 15 13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.
- 16 13-13-225. Absentee election boards -- members -- appointment.
- 17 13-13-241. Examination of absentee ballot signature envelopes -- deposit of absentee and unvoted ballots
- 18 -- rulemaking.
- 19 13-14-111. Application of general laws.
- 20 13-14-112. Declarations for nomination -- fee -- filing.
- 21 13-14-113. Filing for offices without salary or fees.
- 22 13-14-114. Register of candidates.
- 23 13-14-115. Preparation and distribution of nonpartisan primary ballots -- determination on conducting
- 24 primary.
- 25 13-14-117. Placing names on ballots for general election.
- 26 13-14-118. Vacancies among nominees after nomination and before general election.
- 27 13-15-205. Items to be delivered to election administrator by election judges -- disposition of other items.
- 28 13-15-206. Counting votes -- uniformity -- rulemaking -- definitions.
- 29 13-15-208. Determining total vote cast for all candidates for an office.
- 30 13-15-405. Declaration or certification of results.

- 1 13-15-406. Certificates to be issued by the election administrator.
- 2 13-15-507. Declaration, proclamation, and certification of results.
- 3 13-16-101. County governing body as county recount board.
- 4 13-16-211. Recounts allowed if bond posted to cover all costs.
- 5 13-16-418. Certification after recount.
- 6 13-16-419. Recount by board of state canvassers.
- 7 13-16-501. Tie vote after recount.
- 8 13-17-103. Required specifications for voting systems.
- 9 13-25-201. Election of United States senators and representatives.
- 10 13-25-205. Nominations for special election.
- 11 13-35-106. Ineligibility to hold office because of conviction.
- 12 13-35-205. Tampering with election records and information.
- 13 13-35-206. Injury to election equipment, materials, and records.
- 14 13-35-207. Deceptive election practices.
- 15 13-35-214. Illegal influence of voters.
- 16 13-35-218. Coercion or undue influence of voters.
- 17 13-35-221. Improper nominations.
- 18 13-35-225. Election materials not to be anonymous -- statement of accuracy -- notice -- penalty.
- 19 13-35-226. Unlawful acts of employers and employees.
- 20 13-36-101. Grounds for contest of nomination or election to public office.
- 21 13-36-102. Time for commencing contest.
- 22 13-36-103. Court having jurisdiction of proceedings.
- 23 13-36-104. Nomination contests.
- 24 13-36-201. Contents of contest petition.
- 25 13-36-202. Reception of illegal votes -- allegations and evidence.
- 26 13-36-203. Form of complaint.
- 27 13-36-206. Notice of filing -- prompt hearing.
- 28 13-36-207. Hearing of contest.
- 29 13-36-209. Forfeiture of nomination or office for violation of law -- when inappropriate.
- 30 13-36-210. Punishment.

- 1 13-36-211. When nomination or election not to be vacated.
- 2 13-36-212. Declaration of result of election after rejection of illegal votes.
- 3 13-37-127. Withholding of certificates of nomination or election.
- 4 13-37-216. Limitations on contributions -- adjustment.
- 5 13-37-218. Limitations on receipts from political committees.
- 6 13-38-101. Powers of parties.
- 7 13-38-201. Election of committee representatives at primary -- vacancies -- tie votes.

8

9 **NEW SECTION. Section 97. Repealer.** The following section of the Montana Code Annotated is
 10 repealed by this referendum:

- 11 13-10-602. Use of party name.

12

13 **NEW SECTION. Section 98. Codification instruction.** [Section 30] is intended to be codified as an
 14 integral part of Title 13, chapter 10, part 3, and the provisions of Title 13, chapter 10, part 3, apply to [section 30].

15

16 **NEW SECTION. Section 99. Severability.** If a part of [this act] is invalid, all valid parts that are
 17 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
 18 the part remains in effect in all valid applications that are severable from the invalid applications.

19

20 **NEW SECTION. Section 100. Effective date.** [This act] is effective upon approval by the electorate.

21

22 **NEW SECTION. Section 101. Applicability.** [This act] applies to elections held on or after January 1,
 23 2017.

24

25 **NEW SECTION. Section 102. Submission to electorate.** [This act] shall be submitted to the qualified
 26 electors of Montana at the general election to be held in November 2016 by printing on the ballot the full title of
 27 [this act] and the following:

- 28 YES on Legislative Referendum ____.
- 29 NO on Legislative Referendum ____.

30 - END -

