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SENATE BILL NO. 566

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS TO PROVIDE FOR A TOP TWO PRIMARY FOR CERTAIN OFFICES; REQUIRING THAT THE TWO CANDIDATES WHO RECEIVE THE MOST VOTES IN PRIMARY ELECTIONS FOR ~~A U.S. SENATE~~ OFFICE AND REPRESENTATIVE OFFICES AND CERTAIN STATEWIDE OFFICES ADVANCE TO THE GENERAL ELECTION IRRESPECTIVE OF PARTY AFFILIATION; RAISING THE FILING FEE FOR ~~U.S. SENATE~~ CANDIDATES FOR OFFICE IN WHICH THE SALARY IS MORE THAN \$2,500; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 3-1-906, 13-1-101, 13-1-103, 13-1-403, 13-1-502, 13-4-102, 13-10-201, 13-10-202, 13-10-203, 13-10-204, 13-10-208, 13-10-209, 13-10-211, 13-10-301, 13-10-302, 13-10-303, 13-10-325, 13-10-326, 13-10-327, 13-10-405, 13-10-501, 13-10-505, 13-10-601, 13-10-605, 13-12-201, 13-12-202, 13-12-203, 13-12-205, 13-12-207, 13-13-214, 13-13-225, 13-13-241, 13-14-112, 13-14-113, 13-15-205, 13-15-206, 13-15-507, 13-16-211, 13-16-412, 13-16-418, 13-16-419, 13-16-501, 13-17-103, 13-25-201, 13-25-205, 13-27-401, 13-35-106, 13-35-205, 13-35-206, 13-35-207, 13-35-214, 13-35-218, 13-35-221, 13-35-225, 13-35-226, 13-36-101, 13-36-102, 13-36-103, 13-36-104, 13-36-201, 13-36-202, 13-36-203, 13-36-206, 13-36-207, 13-36-209, 13-36-210, 13-36-211, 13-36-212, 13-37-127, 13-37-216, AND 13-37-234, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

~~WHEREAS, two thirds of Montana voters passed term limits in 1992 for many elective offices, including U.S. Senate; and~~

~~WHEREAS, U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995), prevented Montana from enforcing term limits on its federal officials who serve in the U.S. Senate; and~~

~~WHEREAS, since Montana adopted term limits in 1992, three of the ten elections for U.S. Senate have been won by candidates with less than a majority of Montana voters (1996, 2006, 2012); and~~

~~WHEREAS, seats for the U.S. Senate are the only statewide federal officeholders in Montana and terms for the U.S. Senate are set at 6 years and do not give voters the same opportunity to hold elected officials accountable as those officials in 2-year terms for the U.S. House; and~~

~~WHEREAS, in the absence of enforceable term limits on federal officials, the Legislature desires that winners of Montana's U.S. Senate contests garner a majority of voters to ensure our federal elected officials have broad support in the absence of term limits and due to the longer terms in office; and~~

~~WHEREAS, a top two primary for federal offices to determine which candidate has majority support is preferable to a costly run-off election following the general election; and~~

~~WHEREAS, as recognized by the U.S. Supreme Court in the top two primary case of Washington State Grange v. Washington State Republican Party, 552 U.S. 442 (2008), and authored by Justice Clarence Thomas, states possess a "broad power to prescribe the "Times, Places and Manner of holding Elections for Senators and Representatives" under Article 1, Section 4, Clause 1, of the U.S. Constitution; and~~

~~WHEREAS, Article IV, section 3, of the Montana Constitution, gives the authority to administer federal elections in Montana to the Montana Legislature; and~~

~~WHEREAS, the 2023 Legislature proposes a top two primary for U.S. Senate in 2024 with a sunset provision to allow the 2025 Legislature to review the election process and make revisions according to its constitutional authority and determine future applicability of the top two primary in Montana.~~

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

Section 1. Section 3-1-906, MCA, is amended to read:

"3-1-906. Senate confirmation -- exception -- nomination in interim -- appointment contingent on vacancy. (1) (a) Except as provided in subsection (2):

(i) each appointment must be confirmed by the senate; and

(ii) an appointment made while the senate is not in session is effective until the end of the next special or regular legislative session.

(b) If the appointment is subject to senate confirmation under subsection (1)(a) and is not confirmed, the office is vacant and another selection of nominees and appointment must be made.

(2) The following appointments are not subject to senate confirmation, and there must be an election for the office at the general election immediately preceding the scheduled expiration of the term or following the appointment, as applicable:

1 (a) an appointment made while the senate is not in session if the term to which the appointee is
2 appointed expires prior to the next legislative session, regardless of the time of the appointment in relation to
3 the candidate filing deadlines for the office; and

4 (b) an appointment made while the senate is not in session if a general election will be held prior to
5 the next legislative session and the appointment is made prior to the candidate filing deadline for primary
6 elections under 13-10-201~~(7)~~(8), in which case the position is subject to election at the next primary and
7 general elections.

8 (3) A nomination is not effective unless a vacancy in office occurs."
9

10 **Section 2.** Section 13-1-101, MCA, is amended to read:

11 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
12 following definitions apply:

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

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

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

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

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

24 (6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their
25 approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment,
26 recall question, school levy question, bond issue question, or ballot question.

27 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by
28 the proper official that the legal procedure necessary for its qualification and placement on the ballot has been

1 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the
2 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

3 (7) "Ballot issue committee" means a political committee specifically organized to support or
4 oppose a ballot issue.

5 (8) "Candidate" means:

6 (a) an individual who has filed a declaration of candidacy, declaration for nomination, or petition for
7 nomination, acceptance of nomination, selection to advance, or appointment as a candidate for public office as
8 required by law;

9 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and
10 retained contributions, made expenditures, or given consent to an individual, organization, political party, or
11 committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure
12 nomination, selection to advance, or election to any office at any time, whether or not the office for which the
13 individual will seek nomination or election is known when the:

14 (i) solicitation is made;

15 (ii) contribution is received and retained; or

16 (iii) expenditure is made; or

17 (c) an officeholder who is the subject of a recall election.

18 (9) "Certificate of selection" means a certificate awarded to the individuals authorized by law to
19 advance for a top two primary election and appear on the general election ballot.

20 ~~(9)~~(10) (a) "Contribution" means:

21 (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance,
22 deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot
23 issue;

24 (ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate
25 or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

26 (iii) the receipt by a political committee of funds transferred from another political committee; or

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

- 1 (b) The term does not mean:
- 2 (i) services provided without compensation by individuals volunteering a portion or all of their time
- 3 on behalf of a candidate or political committee;
- 4 (ii) meals and lodging provided by individuals in their private residences for a candidate or other
- 5 individual;
- 6 (iii) the use of a person's real property for a fundraising reception or other political event; or
- 7 (iv) the cost of a communication not for distribution to the general public by a religious organization
- 8 exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held
- 9 religious beliefs or practices.

10 (c) This definition does not apply to Title 13, chapter 37, part 6.

11 ~~(10)~~(11) "Coordinated", including any variations of the term, means made in cooperation with, in

12 consultation with, at the request of, or with the express prior consent of a candidate or political committee or an

13 agent of a candidate or political committee.

14 ~~(11)~~(12) "De minimis act" means an action, contribution, or expenditure that is so small that it does not

15 trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant

16 enforcement as a campaign practices violation under Title 13, chapter 37.

17 (13) "Declaration for nomination" means the document filed by a candidate for an office that

18 requires a partisan primary held under Title 13, chapter 10, part 2, or nonpartisan primary under Title 13,

19 chapter 14.

20 (14) "Declaration of candidacy" means the document filed by a candidate for an office that requires

21 a top two primary be used to narrow the number of candidates for the general election.

22 ~~(12)~~(15) "Disability" means a temporary or permanent mental or physical impairment such as:

- 23 (a) impaired vision;
- 24 (b) impaired hearing;
- 25 (c) impaired mobility. Individuals having impaired mobility include those who require use of a
- 26 wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.
- 27 (d) impaired mental or physical functioning that makes it difficult for the person to participate in the
- 28 process of voting.

1 ~~(13)~~(16) "Election" means a general, special, or primary election held pursuant to the requirements of
2 state law, regardless of the time or purpose.

3 ~~(14)~~(17) (a) "Election administrator" means, except as provided in subsection ~~(14)~~ ~~(b)~~ (17)(b), the
4 county clerk and recorder or the individual designated by a county governing body to be responsible for all
5 election administration duties, except that with regard to school elections not administered by the county, the
6 term means the school district clerk.

7 (b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder
8 or the individual designated by a county governing body to be responsible for all election administration duties
9 even if the school election is administered by the school district clerk.

10 ~~(15)~~(18) (a) "Election communication" means the following forms of communication to support or
11 oppose a candidate or ballot issue:

- 12 (i) a paid advertisement broadcast over radio, television, cable, or satellite;
- 13 (ii) paid placement of content on the internet or other electronic communication network;
- 14 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;
- 15 (iv) a mailing; or
- 16 (v) printed materials.

17 (b) The term does not mean:

- 18 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to
19 vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;
- 20 (ii) a communication that does not support or oppose a candidate or ballot issue;
- 21 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
22 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general
23 circulation;
- 24 (iv) a communication by any membership organization or corporation to its members, stockholders,
25 or employees;
- 26 (v) a communication not for distribution to the general public by a religious organization exempt
27 from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious
28 beliefs or practices; or

Amendment - 2nd Reading-yellow - Requested by: Ryan Lynch - (S) Committee of Whole

- 2023

68th Legislature 2023

Drafter: Rachel Weiss, 406-444-5367

SB0566.001.003

1 (vi) a communication that the commissioner determines by rule is not an election communication.

2 ~~(16)~~(19) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to
3 perform duties as specified by law.

4 ~~(17)~~(20) (a) "Electioneering communication" means a paid communication that is publicly distributed by
5 radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other
6 distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does
7 not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the
8 district voting on the candidate or ballot issue, and that:

9 (i) refers to one or more clearly identified candidates in that election;

10 (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that
11 election; or

12 (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

13 (b) The term does not mean:

14 (i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
15 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general
16 circulation unless the facilities are owned or controlled by a candidate or political committee;

17 (ii) a communication by any membership organization or corporation to its members, stockholders,
18 or employees;

19 (iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in
20 the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

21 (iv) a communication that constitutes a candidate debate or forum or that solely promotes a
22 candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

23 (v) a communication not for distribution to the general public by a religious organization exempt
24 from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious
25 beliefs or practices; or

26 (vi) a communication that the commissioner determines by rule is not an electioneering
27 communication.

28 ~~(18)~~(21) "Elector" means an individual qualified to vote under state law.

1 ~~(19)~~(22) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge,
2 or gift of money or anything of value:

3 (i) made by a candidate or political committee to support or oppose a candidate or a ballot issue;

4 (ii) made by a candidate while the candidate is engaging in campaign activity to pay child-care
5 expenses as provided in 13-37-220; or

6 (iii) used or intended for use in making independent expenditures or in producing electioneering
7 communications.

8 (b) The term does not mean:

9 (i) services, food, or lodging provided in a manner that they are not contributions under subsection
10 ~~(9)~~ (10);

11 (ii) except as provided in subsection ~~(19)(a)(ii)~~ (22)(a)(ii), payments by a candidate for personal
12 travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

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

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

18 (v) the use of a person's real property for a fundraising reception or other political event; or

19 (vi) the cost of a communication not for distribution to the general public by a religious organization
20 exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held
21 religious beliefs or practices.

22 (c) This definition does not apply to Title 13, chapter 37, part 6.

23 ~~(20)~~(23) "Federal election" means an election in even-numbered years in which an elector may vote for
24 individuals for the office of president of the United States or for the United States congress.

25 ~~(21)~~(24) "General election" means an election that is held for offices that first appear on a primary
26 election ballot, unless the primary is cancelled as authorized by law, and that is held on a date specified in 13-
27 1-104.

28 ~~(22)~~(25) "Inactive elector" means an individual who failed to respond to confirmation notices and

1 whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

2 ~~(23)~~(26) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.

3 ~~(24)~~(27) (a) "Incidental committee" means a political committee that is not specifically organized or
4 operating for the primary purpose of supporting or opposing candidates or ballot issues but that may
5 incidentally become a political committee by receiving a contribution or making an expenditure.

6 (b) For the purpose of this subsection ~~(24)~~ (27), the primary purpose is determined by the
7 commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the
8 statement of purpose or goal of the person or individuals that form the committee.

9 ~~(25)~~(28) "Independent committee" means a political committee organized for the primary purpose of
10 receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate
11 and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant
12 to the limits set forth in 13-37-216(1).

13 ~~(26)~~(29) "Independent expenditure" means an expenditure for an election communication to support or
14 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue
15 committee.

16 ~~(27)~~(30) "Individual" means a human being.

17 ~~(28)~~(31) "Legally registered elector" means an individual whose application for voter registration was
18 accepted, processed, and verified as provided by law.

19 ~~(29)~~(32) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by
20 mailing ballots to all active electors.

21 (33) "Nonpartisan primary" means a primary election that is conducted under Title 13, chapter 14.

22 (34) (a) "Partisan primary" means a primary election conducted under Title 13, chapter 10, for local,
23 county, legislative, district, statewide, presidential preference primary, or political party precinct committee
24 offices.

25 (b) The term does not include a primary election for U.S. senator.

26 ~~(30)~~(35) "Person" means an individual, corporation, association, firm, partnership, cooperative,
27 committee, including a political committee, club, union, or other organization or group of individuals or a
28 candidate as defined in subsection (8).

1 ~~(34)~~(36) "Place of deposit" means a location designated by the election administrator pursuant to 13-
2 19-307 for a mail ballot election conducted under Title 13, chapter 19.

3 ~~(32)~~(37) (a) "Political committee" means a combination of two or more individuals or a person other
4 than an individual who receives a contribution or makes an expenditure:

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

7 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot
8 issue; or

9 (iii) to prepare or disseminate an election communication, an electioneering communication, or an
10 independent expenditure.

11 (b) Political committees include ballot issue committees, incidental committees, independent
12 committees, and political party committees.

13 (c) A candidate and the candidate's treasurer do not constitute a political committee.

14 (d) A political committee is not formed when a combination of two or more individuals or a person
15 other than an individual makes an election communication, an electioneering communication, or an
16 independent expenditure of \$250 or less.

17 (e) A joint fundraising committee is not a political committee.

18 ~~(33)~~(38) "Political party committee" means a political committee formed by a political party organization
19 and includes all county and city central committees.

20 ~~(34)~~(39) "Political party organization" means a political organization that:

21 (a) was represented on the official ballot in either of the two most recent statewide general
22 elections; or

23 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.

24 ~~(35)~~(40) "Political subdivision" means a county, consolidated municipal-county government,
25 municipality, special purpose district, or any other unit of government, except school districts, having authority
26 to hold an election.

27 ~~(36)~~(41) "Polling place election" means an election primarily conducted at polling places rather than by
28 mail under the provisions of Title 13, chapter 19.

1 ~~(37)~~(42) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to:

2 (a) _____ nominate candidates using a partisan primary or a nonpartisan primary for offices filled at a
3 general election; or

4 (b) _____ narrow the number of candidates using a top two primary for offices filled at a general election.

5 ~~(38)~~(43) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has
6 not been verified as provided by law.

7 ~~(39)~~(44) "Provisionally registered elector" means an individual whose application for voter registration
8 was accepted but whose identity or eligibility has not yet been verified as provided by law.

9 ~~(40)~~(45) "Public office" means a state, county, municipal, school, or other district office that is filled by
10 the people at an election.

11 ~~(41)~~(46) "Random-sample audit" means an audit involving a manual count of ballots from designated
12 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

13 ~~(42)~~(47) "Registrar" means the county election administrator and any regularly appointed deputy or
14 assistant election administrator.

15 ~~(43)~~(48) "Regular school election" means the school trustee election provided for in 20-20-105(1).

16 ~~(44)~~(49) "Religious organization" means a house of worship with the major purpose of supporting
17 religious activities, including but not limited to a church, mosque, shrine, synagogue, or temple. The organic
18 documents of the organization must list a formal code of doctrine and discipline, and the organization must
19 spend the majority of its money on religious activities such as regular religious services, educational
20 preparation for its ministers, development and support of its ministers, membership development, outreach and
21 support, and the production and distribution of religious literature developed by the organization.

22 ~~(45)~~(50) "School election" has the meaning provided in 20-1-101.

23 ~~(46)~~(51) "School election filing officer" means the filing officer with whom the declarations for
24 nomination for school district office were filed or with whom the school ballot issue was filed.

25 ~~(47)~~(52) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount
26 duties in school elections.

27 (53) _____ "Selection to advance" or "selected to advance" means the status given to an individual
28 authorized by law to advance from a top two primary election and appear on the general election ballot.

1 (48)(54) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and
2 that is designed to:

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

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

6 (49)(55) "Special election" means an election held on a day other than the day specified for a primary
7 election, general election, or regular school election.

8 (50)(56) "Special purpose district" means an area with special boundaries created as authorized by
9 law for a specialized and limited purpose.

10 (54)(57) "Statewide voter registration list" means the voter registration list established and maintained
11 pursuant to 13-2-107 and 13-2-108.

12 (52)(58) "Support or oppose", including any variations of the term, means:

13 (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or
14 "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election
15 or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to
16 voters in an election; or

17 (b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or
18 ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the
19 nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the
20 passage or defeat of the ballot issue or other question submitted to the voters in an election.

21 (59) "Top two primary" means the primary election process to narrow the number of candidates ~~for~~
22 ~~U.S. senator~~ to two candidates who, irrespective of political party preference, receive the highest number of
23 ~~votes cast in the race for the office of U.S. senator following offices:~~

24 (a) ~~U.S. senator;~~

25 (b) ~~U.S. representative;~~

26 (c) ~~governor and lieutenant governor;~~

27 (d) ~~secretary of state;~~

28 (e) ~~attorney general;~~

- 1 (f) state auditor;
- 2 (g) superintendent of public instruction; and
- 3 (h) clerk of supreme court.

4 ~~(53)~~(60) "Valid vote" means a vote that has been counted as valid or determined to be valid as
 5 provided in 13-15-206.

6 ~~(54)~~(61) "Voted ballot" means a ballot that is:

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

10 ~~(55)~~(62) "Voter interface device" means a voting system that:

- 11 (a) is accessible to electors with disabilities;
- 12 (b) communicates voting instructions and ballot information to a voter;
- 13 (c) allows the voter to select and vote for candidates and issues and to verify and change

14 selections; and

15 (d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's
 16 accuracy and that may be manually counted.

17 ~~(56)~~(63) "Voting system" or "system" means any machine, device, technology, or equipment used to
 18 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

20 **Section 3.** Section 13-1-103, MCA, is amended to read:

21 **"13-1-103. Determination of winner.** (1) The individual receiving the highest number of valid votes
 22 for any office at an a general election, nonpartisan primary, or partisan primary election is elected or nominated
 23 to that office.

24 (2) The two individuals receiving the most votes in a top two primary are selected to advance."

26 **Section 4.** Section 13-1-403, MCA, is amended to read:

27 **"13-1-403. Election deadlines for candidate filing, write-in candidacy, and withdrawal -- election**
 28 **cancellation -- election by acclamation.** (1) Consistent with the candidate filing deadline in 13-10-201~~(7)~~(8)

1 (3) the number of candidates is equal to or less than the number of positions to be filled at the election, the
2 election administrator shall cancel the election and, pursuant to 13-1-304, immediately notify the governing
3 body of the local government in writing of the cancellation. However, the governing body of the local
4 government may by resolution require that the election be held.

5 (b) For an election of conservation district supervisors held in conjunction with a federal primary or
6 federal general election, if by the candidate filing deadline under subsection (1) the number of candidates is
7 equal to or less than the number of positions to be filled at the election, the election administrator shall cancel
8 the election and immediately notify the governing body of the conservation district in writing of the cancellation.
9 However, the governing body of the conservation district may, by no later than 10 days after the candidate filing
10 deadline, pass a resolution to require that the election be held.

11 (5) (a) If an election has been canceled and there is only one candidate for a position, the
12 governing body of the local government or, if appropriate, of the conservation district shall declare the
13 candidate elected to the position by acclamation.

14 (b) Except as otherwise provided by law:

15 (i) if an election has been canceled and there are no regular or declared write-in candidates for a
16 position, the governing body of the local government or, if appropriate, of the conservation district shall fill the
17 position by appointment;

18 (ii) an appointed member shall serve the same term as if the member were elected."
19

20 **Section 6.** Section 13-4-102, MCA, is amended to read:

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

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

28 (3) Each board of election judges must include judges representing all parties that have submitted

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

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

9 (5) An elector chosen to potentially serve as an election judge must be notified of selection at least
10 30 days before the primary election in even-numbered years. Each elector who agrees to serve as an election
11 judge shall attend a training class conducted under 13-4-203 and shall continue to serve as provided in 13-4-
12 103."

13
14 **Section 7.** Section 13-10-201, MCA, is amended to read:

15 **"13-10-201. Declaration for nomination -- declaration of candidacy -- term limitations.** (1) (a)

16 Each candidate in the a partisan primary election, ~~except nonpartisan candidates filing under the provisions of~~
17 ~~Title 13, chapter 14,~~ and candidate in a top two primary election filing under the provisions of subsection (1)(b),
18 shall file a declaration for nomination with the secretary of state or election administrator.

19 (b) Each candidate in a top two primary election shall file a declaration of candidacy with the
20 secretary of state. Each candidate for governor shall file a joint declaration of candidacy with a candidate for
21 lieutenant governor.

22 (c) Except for a candidate under 13-38-201(4) or a candidate covered under 7-1-205, a candidate
23 may not file for more than one public office. ~~Each candidate for governor shall file a joint declaration for~~
24 ~~nomination with a candidate for lieutenant governor.~~

25 (2) A declaration for nomination or a declaration of candidacy must be filed in the office of:

26 (a) the secretary of state for placement of a name on the ballot for the presidential preference
27 primary, ~~a congressional office,~~ the office of U.S. representative, a state or district office to be voted for in more
28 than one county other than the office of U.S. senate, a member of the legislature, or a judge of the district court;

1 or

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

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

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

13 (5) (a) In a top two primary, each candidate may state the candidate's political party preference on
14 the declaration of candidacy. A candidate may not declare a preference for more than one party. When
15 identifying a political party preference, a candidate is not restricted to identifying an established party and may
16 use a limited number of characters, according to rules adopted by the secretary of state, to identify a political
17 party preference.

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

21 ~~(5)(6)~~ The declaration for nomination, when filed, is conclusive evidence that the elector is a
22 candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for
23 more than one party's nomination.

24 ~~(6)(7)~~ (a) The declaration for nomination and the declaration of candidacy must be in the form and
25 contain the information prescribed by the secretary of state.

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

1 on a form prescribed by the secretary of state.

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

4 ~~(7)~~(8) Except as provided in 13-10-211, a candidate's declaration for nomination or declaration of
5 candidacy must be filed no sooner than 145 days before the election in which the office first appears on the
6 ballot and no later than 5 p.m., 85 days before the date of the primary election.

7 ~~(8)~~(9) A properly completed and signed declaration for nomination or declaration of candidacy form
8 may be sent by facsimile transmission, electronically mailed, delivered in person, or mailed to the election
9 administrator or to the secretary of state.

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

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

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

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

19
20 **Section 8.** Section 13-10-202, MCA, is amended to read:

21 **"13-10-202. Filing fees.** Filing fees are as follows:

22 (1) for offices having an annual salary of \$2,500 or less and candidates for the legislature, \$15;

23 (2) for county offices having an annual salary of more than \$2,500, 0.5% of the total annual salary;

24 (3) for president in a presidential preference primary, an amount equivalent to the filing fee

25 required for a United States senate candidate;

26 ~~(4) for the United States senate, 1.1% of the total annual salary;~~

27 ~~(4)~~(5)(4) for other offices having an annual salary of more than \$2,500, ~~4%~~1.1% of the total

28 annual salary;

1 ~~(5)(6)(5)~~ for offices in which compensation is paid in fees, \$10;
 2 ~~(6)(7)(6)~~ for officers of political parties, presidential electors, and officers who receive no salary
 3 or fees, no filing fee is required."
 4

Section 9. Section 13-10-203, MCA, is amended to read:

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

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

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

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

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

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

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

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

"13-10-204. Write-in nominations. (1) An individual nominated in a partisan primary or receiving the highest or second-highest number of votes in a top two primary by having the individual's name written in and counted as provided in 13-15-206(5) or otherwise placed on the primary ballot and desiring to accept the nomination or selection to advance may not have the individual's name appear on the general election ballot unless the individual:

1 declaration for nomination.

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

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

6 (5) Each sheet of a petition must contain signatures of electors residing in only one county."
7

8 **Section 23.** Section 13-10-505, MCA, is amended to read:

9 **"13-10-505. Applicability.** The provisions of 13-10-501 through 13-10-504 ~~shall~~may not be used to
10 fill vacancies or to nominate candidates in nonpartisan elections or candidates for offices for which candidates
11 are selected to advance in a top two primary ~~except for nominations to fill a vacancy as provided in 13-25-205."~~

12

13 **Section 24.** Section 13-10-601, MCA, is amended to read:

14 **"13-10-601. Parties eligible for partisan primary election -- petitions by minor parties.** (1) Each
15 political party that had a candidate who selected the party as the candidate's preferred party for a statewide
16 office other than U.S. senator in either of the last two general elections who received a total vote that was 5% or
17 more of the total votes cast for the most recent successful candidate for governor shall nominate its candidates
18 for public office, except for presidential electors and the office of U.S. senator and statewide offices for which
19 candidates are selected to advance in a top two primary, by a partisan primary election as provided in this
20 chapter.

21 (2) After certification of a petition by the secretary of state under 13-10-610(1), a political party that
22 does not qualify to hold a primary election under subsection (1) shall nominate its candidates for public office by
23 partisan primary election. However, this section may not be construed to prohibit an election administrator from
24 not preparing a partisan primary election ballot pursuant to 13-10-209."
25

26

26 **Section 25.** Section 13-10-605, MCA, is amended to read:

27 **"13-10-605. Qualifying minor political parties -- reports required.** (1) A person who spends or
28 receives money to support or oppose an effort to qualify a minor political party for partisan primary elections

- 1 on the application form in a manner prescribed by the secretary of state or pursuant to 13-1-116;
- 2 (ii) the individual taking delivery of the ballot on behalf of the elector verifies, by signature, receipt
- 3 of the ballot;
- 4 (iii) the election administrator believes that the individual receiving the ballot is the designated
- 5 person; and
- 6 (iv) the designated person has not previously picked up ballots for four other electors.
- 7 (2) The election administrator shall enclose with the ballots:
- 8 (a) a secrecy envelope, free of any marks that would identify the voter; and
- 9 (b) a signature envelope for the return of the ballot. The signature envelope must be self-
- 10 addressed by the election administrator and an affirmation in the form prescribed by the secretary of state must
- 11 be printed on the back of the signature envelope.
- 12 (3) The election administrator shall ensure that the ballots provided to an absentee elector are
- 13 marked as provided in 13-13-116 and shall remove the stubs from the ballots, keeping the stubs in numerical
- 14 order with the application for absentee ballots, if applicable, or in a precinct envelope or container for that
- 15 purpose.
- 16 (4) Instructions for voting must be enclosed with the ballots. Instructions for partisan primary
- 17 elections must include disposal instructions for unvoted ballots. The instructions must include information
- 18 concerning the type or types of writing instruments that may be used to mark the absentee ballot. The
- 19 instructions must include information regarding use of the secrecy envelope and use of the signature envelope.
- 20 The election administrator shall include a voter information pamphlet with the instructions if:
- 21 (a) a statewide ballot issue appears on the ballot mailed to the elector; and
- 22 (b) the elector requests a voter information pamphlet."
- 23

24 **Section 32.** Section 13-13-225, MCA, is amended to read:

25 **"13-13-225. Absentee election boards -- members -- appointment.** (1) The election administrator

26 may designate and appoint absentee election boards as needed or authorize one or more election officials to

27 serve in various places to deliver ballots to electors who are entitled to vote by absentee ballot as provided in

28 13-13-229.

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

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

8

9 **Section 33.** Section 13-13-241, MCA, is amended to read:

10 **"13-13-241. Examination of absentee ballot signature envelopes -- deposit of absentee and**
11 **unvoted ballots -- rulemaking.** (1) (a) Upon receipt of each absentee ballot signature envelope, an election
12 administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on
13 the elector's voter registration form with the signature on the signature envelope.

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

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

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

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

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

28 (3) In a partisan primary election, if unvoted party ballots are returned by a voter, they must be

- 1 (g) is protected from tampering for a fraudulent purpose;
- 2 (h) prevents an individual from seeing or knowing the number of votes registered for any candidate
- 3 or on any ballot issue during the progress of voting;
- 4 (i) allows write-in voting;
- 5 (j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training
- 6 and technical assistance will be provided to election officials under the contract for purchase of the voting
- 7 system;
- 8 (k) uses a paper ballot that allows votes to be manually counted; and
- 9 (l) allows auditors to access and monitor any software program while it is running on the system to
- 10 determine whether the software is running properly.
- 11 (2) A voter interface device may not be approved for use in this state unless:
- 12 (a) the device meets the electronic security standards adopted by the secretary of state;
- 13 (b) the device provides accessible voting technology for electors with hearing, vision, speech, or
- 14 ambulatory impairments;
- 15 (c) the device meets all requirements specified in subsection (1);
- 16 (d) the device has been made available for demonstration and use by electors with disabilities in at
- 17 least one public event held by the secretary of state; and
- 18 (e) disabled electors have been able to participate in the process of determining whether the
- 19 system meets accessibility standards.
- 20 (3) To implement the provisions of subsection (1)(f), the secretary of state shall adopt rules setting
- 21 a benchmark performance standard that must be met in tests by each voting system prior to approval under 13-
- 22 17-101. The standard must be based on commonly accepted industry standards for readily available
- 23 technologies."

24
25 **Section 45.** Section 13-25-201, MCA, is amended to read:

26 **"13-25-201. Election of United States senators and representatives.** (1) United States senators
27 and representatives shall be elected at the general election preceding commencement of the term to be filled.

28 (2) ~~Nominations-Selections to advance~~ and elections ~~for United States representatives shall must~~

1 be as provided by law for governor.

2 ~~(3) Selections to advance and elections for United States senator must be as provided by law and~~
3 ~~use a top two primary."~~

4
5 **Section 46.** Section 13-25-205, MCA, is amended to read:

6 **"13-25-205. Nominations for special election.** ~~(1) (a) When a special election is ordered to fill a~~
7 ~~vacancy in the office of United States senator or United States representative, each political party shall choose~~
8 ~~a candidate according to the rules of the party. Nominations by parties must be made no later than 75 days~~
9 ~~before the date set for the election.~~

10 ~~(2)(b) Nominating petitions may be filed by independent candidates for the office up to 5 p.m. of the~~
11 ~~75th day before the election.~~

12 ~~(2) (a)(1) When a special election is ordered to fill a vacancy in the office of United States senator~~
13 ~~or United States representative, a top two primary election to narrow the number of candidates must be~~
14 ~~conducted prior to the special election.~~

15 ~~(b)(2) Declarations of candidacy may be filed for the office up to 5 p.m. of the 75th day before the~~
16 ~~special top two primary election."~~

17
18 **Section 47.** Section 13-27-401, MCA, is amended to read:

19 **"13-27-401. Voter information pamphlet.** (1) The secretary of state shall prepare for printing a voter
20 information pamphlet containing information relevant to the election, including but not limited to:

21 ~~(a) information to inform voters that in the top two primary the two candidates who receive the~~
22 ~~most votes for the office will advance to the general election regardless of either candidate's political party~~
23 ~~preference; and~~

24 ~~(b) the following information for each ballot issue to be voted on at an election, as applicable:~~

25 ~~(a)(i) ballot title, fiscal statement if applicable, and complete text of the issue;~~

26 ~~(b)(ii) the form in which the issue will appear on the ballot;~~

27 ~~(c)(iii) arguments advocating approval and rejection of the issue; and~~

28 ~~(d)(iv) rebuttal arguments.~~

1 from or to cease being a candidate, and a person may not solicit or receive any payment or promise from
2 another for that purpose.

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

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

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

10 (c) withdraw if the person has been nominated.

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

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

18 (b) the person's candidacy for the nomination or selection to advance is not in good faith."
19

20 **Section 55.** Section 13-35-225, MCA, is amended to read:

21 **"13-35-225. Election materials not to be anonymous -- notice -- penalty.** (1) All election
22 communications, electioneering communications, and independent expenditures must clearly and
23 conspicuously include the attribution "paid for by" followed by the name and address of the person who made
24 or financed the expenditure for the communication. The attribution must contain:

25 (a) for election communications or electioneering communications financed by a candidate or a
26 candidate's campaign finances, the name and the address of the candidate or the candidate's campaign;

27 (b) for election communications, electioneering communications, or independent expenditures
28 financed by a political committee or a joint fundraising committee, the name of the committee, the name of the

1 committee treasurer, deputy treasurer, secretary, vice chairperson, or chairperson, as designated pursuant to
2 13-37-201(2)(b), and the address of the committee or the named committee officer; and

3 (c) for election communications, electioneering communications, or independent expenditures
4 financed by a political committee that is a corporation or a union, the name of the corporation or union, its chief
5 executive officer or equivalent, and the address of the principal place of business.

6 (2) (a) Communications in a partisan primary or general election financed by a candidate, a
7 political committee organized on the candidate's behalf, or a joint fundraising committee with a participant who
8 is a candidate or a political committee organized on the candidate's behalf must state the candidate's party
9 affiliation or include the party symbol.

10 (b) Communications in a top two primary or the subsequent general election financed by the
11 candidate, a political committee organized on the candidate's behalf, or a joint fundraising committee with a
12 participant who is a candidate or a political committee organized on the candidate's behalf must state the
13 candidate's party preference, if one was filed on the declaration of candidacy, with the word "preference" after
14 the party or must include the party symbol and that state it is a candidate's party preference only.

15 (3) If a document or other article of advertising is too small for the requirements of subsections (1)
16 and (2) to be conveniently included, the candidate responsible for the material or the person financing the
17 communication shall file a copy of the article with the commissioner of political practices, together with the
18 required information or statement, at the time of its public distribution.

19 (4) If information required in subsections (1) and (2) is omitted or not printed or if the information
20 required by subsection (3) is not filed with the commissioner, upon discovery of or notification about the
21 omission, the candidate responsible for the material or the person financing the communication shall:

22 (a) file notification of the omission with the commissioner of political practices within 2 business
23 days of the discovery or notification;

24 (b) bring the material into compliance with subsections (1) and (2) or file the information required
25 by subsection (3) with the commissioner; and

26 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

27 (5) Whenever the commissioner receives a complaint alleging any violation of subsections (1) and
28 (2), the commissioner shall as soon as practicable assess the merits of the complaint.

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

5 (i) within 2 business days after receiving the notification if the notification occurs more than 7 days
6 prior to an 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 (6)(a), the
10 commissioner shall include a statement that if the candidate, political committee, or joint fundraising committee
11 fails to bring the material into compliance as required under this section, the candidate, political committee, or
12 joint fundraising committee is subject to a civil penalty pursuant to 13-37-128."

13

14 **Section 56.** 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
16 paying employees the salary or wages due them, to include with their pay the name of any candidate or any
17 political mottoes, devices, or arguments containing threats or promises, express or implied, calculated or
18 intended to 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
20 may 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
24 continued or 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
28 opinions or actions of the employer's workers or employees.

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

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

12 **Section 71.** Section 13-37-216, MCA, is amended to read:

13 **"13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided
 14 for in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a
 15 campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as
 16 follows:

- 17 (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed
- 18 \$1,000;
- 19 (ii) for a candidate to be elected for state office in a statewide election, other than the candidates
- 20 for governor and lieutenant governor, not to exceed \$700;
- 21 (iii) for a candidate for any other public office, not to exceed \$400.

22 (b) Except as provided in 13-37-211 and subsection (5) of this section:

- 23 (i) a contribution to a candidate includes contributions made to any political committee organized
- 24 on the candidate's behalf; and
- 25 (ii) a political committee that is not independent of the candidate is considered to be organized on
- 26 the candidate's behalf.

27 (2) All political committees except those of political party organizations are subject to the
 28 provisions of subsection (1). Political party organizations may form political committees that are subject to the

1 following aggregate limitations, adjusted as provided for in subsection (3) and subject to 13-37-219, from all
2 political party committees:

3 (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed
4 \$100,000;

5 (b) for a candidate to be elected for state office in a statewide election, other than the candidates
6 for governor and lieutenant governor, not to exceed \$75,000;

7 (c) for a candidate for public service commissioner, not to exceed \$15,000;

8 (d) for a candidate for the state senate, not to exceed \$3,000;

9 (e) for a candidate for any other public office, not to exceed \$2,000.

10 (3) (a) The commissioner shall adjust the limitations in subsections (1) and (2) by multiplying each
11 limit by an inflation factor, which is determined by dividing the consumer price index for June of the year prior to
12 the year in which a general election is held by the consumer price index for June 2021.

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

14 (i) \$10 increment for the limits established in subsection (1); and
15 (ii) \$50 increment for the limits established in subsection (2).

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

17 (4) A candidate may not accept any contributions, including in-kind contributions, in excess of the
18 limits in this section.

19 (5) For the purposes of applying the limits in this section if the contributions were received by a
20 joint fundraising committee, a contribution must be construed to be:

21 (a) from the person who originally contributed funds to the joint fundraising committee; and
22 (b) received by the candidate participant to whom the funds were allocated by the joint fundraising
23 committee as provided in 13-37-211.

24 (6) For purposes of this section, "election" means the general election or a primary election that
25 involves two or more candidates for the same nomination or selection to advance. If there is not a contested
26 primary, there is only one election to which the contribution limits apply. If there is a contested primary, then
27 there are two elections to which the contribution limits apply."
28

