

# Disabled Electors: Analysis of Statutes and Rules

Prepared for the  
State Administration and Veterans' Affairs Interim Committee

May 16, 2018

by Sheri Scurr, Research Analyst  
Montana Legislative Services Division

---

Statute Catchline and Summary	Year statute last amended	Rule	Year rule last amended	Comments
<b>CONCERNING DISABLED ELECTORS</b>				
<b>13-1-116. Fingerprint, mark, or agent for disabled electors — rulemaking.</b> Disabled elector may designate an agent to provide signature or identifying mark whenever a signature is needed in voter registration and election process (i.e., registering to vote, requesting an absentee ballot, signing a poll book or signing the signature envelop when voting absentee or by mail)	2017	44.3.115	2006	See comments under 13-13-119, MCA.
<b>13-3-205. Adoption of standards for polling place accessibility — rulemaking authority.</b> Secretary of State must adopt rules about accessibility standards for polling places that are in compliance with federal ADA.	2009	44.3.101	2012	(1) Rule refers to federal Voting Accessibility for the Elderly and Handicapped Act, but statute does not.
		44.3.104	2010	(2) Other federal laws in addition to the ADA contain requirements on voting accessibility e.g., HAVA, Voting Rights Act, and others.
		44.3.102	2008	(3) ARM 44.3.102 is "advisory only" and describes role of Sec. of State, references assistance provided under section 208 of Voting Rights Act of 1965, does not mention other applicable federal laws.
		44.3.113	2008	(4) ARM 44.3.113 is "advisory only" and states the Sec. of State shall install a toll-free telecommunication devise for hearing impaired.
		44.3.114	2008	(5) ARM 44.3.114 is "advisory only" and relates only to physical accessibility of polling place and how a complaint is handled.
		44.3.109	2008	(6) ARM 44.3.109 is "advisory only" and authorizes county election administrators to establish one or more voting accessibility advisory committees.

Statute Catchline and Summary	Year statute last amended	Rule	Year rule last amended	Comments
<b>13-3-206. Survey of polling places to determine accessibility — procedures.</b> County election administrators must conduct survey of polling place accessibility	2006	44.3.105	2010	
<b>13-3-207. Polling place classifications.</b> County election administrator must classify each polling place as accessible or inaccessible	2007	44.3.108	2008	
<b>13-3-211. Emergency exemption.</b> Polling place does not have to be accessible if there is an emergency/disaster within 10 days prior to election.	2009	44.3.107	2008	The rule is "advisory only".
<b>13-3-212. Exemption if no accessible polling place is reasonably available.</b> County election administrator may apply to Sec. of State for an exemption to ADA if accessible polling place not available and it cannot be reasonably or safely made accessible, or if in rural area would cause excessive travel or hardship for majority of electors	2007	44.3.106	2010	
<b>13-3-213. Alternative means for casting ballot.</b> Election administrator must provide disabled and elderly individuals with alternative means for casting ballot if they are assigned an inaccessible polling place. Alternative methods and procedures outlined in section.	2017	44.3.110	2015	(1) Statute applies only if the disabled or elderly person is assigned to an inaccessible polling place.  (2) Alternative means does not list a ballot marking machine such as an Automark.
<b>13-13-118. Taking ballot to disabled elector.</b> Allows appointment of two elections judges of different political parties to take a ballot to an elector who comes to premises but unable to enter the polling place because of a disability.	2013	44.3.110	2015	Commonly referred to as "curbside voting".

Statute Catchline and Summary	Year statute last amended	Rule	Year rule last amended	Comments
<p><b>13-13-119. Aid to disabled elector.</b> When disabled elector enters polling place, election judge must ask if person wants assistance. Disabled person may designate their own assistant. Disabled elector must take oath of disability. If election judge assistance is desired, must be assisted by two judges of different political parties.</p>	2011			<p>(1) Nothing in the statute refers to offering use of a voting system or ballot marking devise/machine (e.g., AutoMark or other system).</p> <p>(2) No rule regarding this statute specifically. ARM 44.3.102 on role of Sec. of State might cover because it refers to assistance to be provided under Voting Rights Act.</p> <p>(3) The designation or an agent under 13-3-116 is for a mark or signature, but 13-13-119(5) allows an individual designated at the polling place to sign the precinct register. How do they work together?</p>
<p>The following statutes do not specifically mention disabled or elderly electors, but a rule that applies to elderly or disabled electors references the statute:</p> <p><b>13-1-202. Forms and rules prescribed by secretary of state.</b></p> <p><b>13-13-111. Provision and use of voting stations.</b></p> <p><b>13-13-112. Display of instructions for electors.</b> This section mentions that instructions need to be posted on "how to prepare their ballots or use a voting system"</p>	<p>2007</p> <p>2011</p> <p>2013</p>	<p>44.3.111</p> <p>44.3.112</p>	<p>1986</p> <p>1986</p>	<p>44.3.111 ARM</p> <p>(1) is "advisory only". Regarding elderly electors. Refers to "voting devise ballots" and "easily graspable" stylus and oversize pen or pencil.</p> <p>(2) does not refer to disabled electors or use of a "voting system"</p> <p>44.3.112 ARM</p> <p>(3) is "advisory only". Regarding visually impaired electors.</p> <p>(4) does not mention use of "voting system" or ballot marking devise/machine.</p>

Statute Catchline and Summary	Year statute last amended	Rule	Year rule last amended	Comments
<b>CONCERNING BALLOT UNIFORMITY</b>				
<p><b>13-12-202. Ballot form and uniformity.</b> (1) The secretary of state shall adopt statewide uniform rules that prescribe the ballot form for each type of ballot used in this state. The rules must conform to the provisions of this title unless the voting system used clearly requires otherwise.</p> <p>But subsection (5) states "it must be impossible to distinguish any one of the ballots from another ballot for the same office or issue."</p>	2011	44.3.2408	2013	<p>(1) In section 13-12-202, subsection (2) seems to have an intent that there can be an exception to uniformity, but subsection (5) states the ballots must be "impossible to distinguish".</p> <p>(2) Rule simply adopts statute "by reference" and points to Sec. of State's web page with forms.</p>

# Statues Regarding Disabled Electors

## TABLE OF CONTENTS

### Title 13, Montana Code Annotated - 2017

#### **Chapter 1- General Provisions, Part 1 - General Provisions**

13-1-116. Fingerprint, mark, or agent for disabled electors — rulemaking.

#### **Chapter 2 -Registration of Electors, Part 2 - Registration Procedures**

13-2-221. Agency-based registration.

13-2-221. Agency-based registration.

#### **Chapter 3 - Precincts and Polling Places, Part 2 - Accessibility of Polling Places**

13-3-201. Purpose.

13-3-202. Definitions.

13-3-205. Adoption of standards for polling place accessibility — rulemaking authority.

13-3-206. Survey of polling places to determine accessibility — procedures.

13-3-207. Polling place classifications.

13-3-211. Emergency exemption.

13-3-212. Exemption if no accessible polling place is reasonably available.

13-3-213. Alternative means for casting ballot.

#### **Chapter 13 - Election Procedures**

##### **Part 1 - Procedures at Polling Places**

13-13-114. Voter identification and marking precinct register book before elector votes — provisional voting.

13-13-118. Taking ballot to disabled elector.

13-13-119. Aid to disabled elector.

##### **Part 2 - Procedures for Electors Absent from Polling Places**

13-13-246. Electronic ballots for disabled persons — procedures — definition — rulemaking.

#### **Chapter 19 - Mail Ballot Electors, Part 3 - Election Procedures**

13-19-301. Voting mail ballots.

## **Montana Code Annotated - 2017**

### **Regarding Disabled Electors or Generally Applicable**

**13-1-116. Fingerprint, mark, or agent for disabled electors — rulemaking.** (1) Except as otherwise specified by law, the provisions of this section apply.

(2) Whenever a signature is required by an elector under a provision of this title and the elector is unable because of a disability to provide a signature, the elector may provide a fingerprint, subject to subsection (6), or an identifying mark or may request that an agent, election administrator, or election judge sign for the elector as provided in this section.

(3) If an elector is unable to provide a fingerprint or an identifying mark and the elector has not established an agent pursuant to subsection (4), the election administrator or an election judge may sign for the elector after reviewing and verifying the elector's identification.

(4) (a) An elector who is unable to provide a signature may apply to the election administrator to have another person designated as an agent for purposes of providing a signature or identifying mark required pursuant to this title and for providing any other assistance to the elector throughout the registration and voting process. The use of an agent is a reasonable accommodation under the provisions of 49-2-101(19)(b).

(b) An application for designation of an agent by an elector under this section must be made on a form prescribed by the secretary of state. The secretary of state shall by rule establish the criteria that must be met and the process that must be followed in order for a person to become a designated agent for a disabled elector pursuant to this subsection (4).

(5) If an election administrator or election judge signs or marks a document for an elector pursuant to this section, the election administrator or election judge shall initial the signature or mark.

(6) A disabled elector may not be required to provide a fingerprint.

**13-1-202. Forms and rules prescribed by secretary of state — consultation.** (1) In carrying out the responsibilities under 13-1-201, the secretary of state shall prepare and deliver to the election administrators:

(a) written directives and instructions relating to and based on the election laws;

(b) sample copies of prescribed and suggested forms; and

(c) advisory opinions on the effect of election laws other than those laws in chapter 35, 36, or 37 of this title.

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

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

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

(a) evaluate voting system performance against the benchmark standard adopted pursuant to 13-17-103;

(b) evaluate the security, accuracy, and accessibility of elections; and

(c) assist the secretary of state in making recommendations to improve voter confidence in the integrity of the election process.

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

**13-2-221. Agency-based registration.** (1) Qualified individuals must be given the opportunity to register to vote when applying for or receiving services or assistance:

(a) at an agency that provides public assistance;

(b) at or through an agency that provides state-funded programs primarily engaged in providing services to persons with disabilities; or

(c) at another agency designated by the secretary of state with the consent of the agency.

(2) Agency-based registration sites must:

(a) distribute application for voter registration forms with each application for services or assistance; and

(b) assist an applicant in completing an application for voter registration form unless the applicant refuses assistance.

(3) The completed application for voter registration form must be transmitted by the agency to the election administrator of the county of the elector's residence within the time period specified by 42 U.S.C. 1973gg, et seq.

(4) As used in this section, "agency" means a state agency as defined in 2-4-102(2)(a) or an office of a city, county, consolidated city-county government, or town.

## Part 2

### Accessibility of Polling Places

**13-3-201. Purpose.** The purpose of this part is to promote the fundamental right to vote by improving access to polling places for individuals with disabilities and elderly individuals. The provisions of this part acknowledge that, in certain cases, it may not be possible to locate a polling place that meets the standards for accessibility, either because an accessible polling place does not exist or, if it does, its location in the precinct would require undue travel for a majority of the electors. In those cases when an accessible polling place is not available, this part provides voters with disabilities and elderly voters an alternative means for casting a ballot on election day.

**13-3-202. Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Accessible" means accessible to individuals with disabilities and elderly individuals for purposes of voting as determined in accordance with standards established by the secretary of state under 13-3-205.

(2) "Disability" means a temporary or permanent physical impairment such as:

(a) impaired vision;

(b) impaired hearing; or

(c) impaired mobility. Individuals having impaired mobility include those who require use of a wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

(3) "Elderly" means 65 years of age or older.



- (4) "Election" means a general, special, or primary election held in an even-numbered year.
- (5) "Inaccessible" means not accessible under standards adopted pursuant to 13-3-205.
- (6) "Rural polling place" means a location that is expected to serve less than 200 registered electors.

**13-3-205. Adoption of standards for polling place accessibility — rulemaking authority.** (1) The secretary of state, with advice from election administrators and individuals with disabilities and elderly individuals, shall establish standards for accessibility of polling places.

(2) Standards for polling places approved pursuant to subsection (1) on or after October 1, 2005, must comply with the accessibility standards in the **Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.**

(3) The secretary of state:

(a) may adopt rules to implement the provisions of this part; and

(b) shall adopt rules to implement the exemption provisions of 13-3-212.

**1987 Statement of Intent:** The statement of intent attached to Ch. 200, L. 1987, provided: "A statement of intent is required for this bill because it grants the secretary of state authority to adopt rules to assure accessibility at the polling place for handicapped and elderly voters. Such rules must be adopted under the Montana Administrative Procedure Act and must be consistent with the provisions of this act.

It is the intent of the legislature that the secretary of state adopt rules to establish standards that a polling place must meet in order to be designated accessible under this act. Wherever possible, these standards should be consistent with the standards established by the American National Standards Institute and the Uniform Federal Accessibility Standards.

In addition, it is intended that the secretary of state establish polling place classifications and survey procedures to determine whether polling places are accessible to handicapped and elderly voters. The secretary of state should also define the basis for an emergency exemption under section 8, which allows an election administrator to relocate an established polling place within 10 days prior to an election.

Finally, it is contemplated that the secretary of state establish procedures to allow an elector to vote on election day by alternative means if he is prevented from voting at his assigned polling place because it is inaccessible."

**13-3-206. Survey of polling places to determine accessibility — procedures.** (1) The election administrator in each county shall conduct an onsite survey of each polling place used in an election to determine whether it meets the standards for accessibility established under 13-3-205.

(2) Each election administrator shall conduct the survey in a manner that represents the path of travel that an elector would reasonably be expected to take in order to reach the polling place on election day.

(3) A polling place that has been surveyed pursuant to this section need not be surveyed again unless:

(a) the conditions of accessibility change; or

(b) the initial survey results are inaccurate.

**13-3-207. Polling place classifications.** As a result of the survey provided in 13-3-206, each polling place must be classified as:

- (1) accessible; or
- (2) inaccessible.

**13-3-211. Emergency exemption.** (1) The secretary of state shall exempt a polling place from the requirements of this part if an emergency occurs within 10 days prior to an election. An emergency is considered to exist if a polling place becomes unavailable by reason of loss of lease, fire, snow, or natural disaster.

(2) If an emergency occurs, the election administrator in the county shall designate a new polling place in accordance with the procedure provided in 13-3-105. The new polling place is considered temporary and is exempt from the survey procedures established under 13-3-206. However, the polling place may not be used in a subsequent election unless it is surveyed as required in 13-3-206.

**13-3-212. Exemption if no accessible polling place is reasonably available.** (1) If an election administrator desires to designate as a polling place a location that is inaccessible, the election administrator shall make a request in writing to the secretary of state asking that an inaccessible polling place be exempt from the standards for accessibility.

(2) The secretary of state may grant an exemption pursuant to rules adopted under 13-3-205 if all potential polling places have been surveyed and it is determined that:

(a) an accessible polling place is not available and the county cannot safely or reasonably make a polling place temporarily accessible in the area involved; or

(b) the location is a rural polling place and designation of an accessible facility as a polling place will require excessive travel or impose other hardships for the majority of qualified electors in the precinct.

**13-3-213. Alternative means for casting ballot.** (1) The election administrator shall provide individuals with disabilities and elderly individuals an alternative means for casting a ballot on election day if they are assigned to an inaccessible polling place. These alternative means for casting a ballot include:

(a) delivery of a ballot to the elector as provided in 13-13-118;

(b) voting by absentee ballot in person at a designated voting station at the county election administrator's office; and

(c) prearranged assignment to an accessible polling place within the county.

(2) An elector with a disability or an elderly elector assigned to an inaccessible polling place who desires to vote at an accessible polling place:

(a) shall request assignment to an accessible polling place by notifying the election administrator in writing at least 7 days preceding the election;

(b) must be assigned to the nearest accessible polling place for the purpose of voting in the election;

(c) shall sign the elector's name on a special addendum to the official precinct register as required in subsection (4); and

(d) must receive the same ballot to which the elector is otherwise entitled.

(3) For the purpose of subsection (2), the ballot cast at an alternative polling place must be processed and counted in the same manner as an absentee ballot.

(4) The name of an elector who has been assigned to vote in a precinct other than the precinct in which the person is registered, as provided in subsection (2), must be printed on a special addendum to the precinct register in a form prescribed by the secretary of state.

**13-13-111. Provision and use of voting stations.** (1) The election administrator shall provide a sufficient number of voting stations to allow voting to proceed with as little delay as possible.

(2) Voting stations must be arranged in a manner that will not permit any other individual to see how the elector votes or has voted.

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

(4) An individual may not occupy a voting station longer than is reasonably necessary to prepare the elector's ballot, after which the election judges may effect the removal of the elector from the station.

**13-13-112. Display of instructions for electors.** (1) Except as provided in subsection (3), instructions for electors on how to prepare their ballots **or use a voting system** must be posted in each voting station provided for the preparation of ballots.

(2) The instructions must be in easily read type, 18 point or larger, and explain:

(a) how to obtain ballots for voting;

(b) how to prepare ballots, including how to:

(i) cast a valid vote, including a valid vote for a write-in candidate;

(ii) correct a mistake; and

(iii) ensure the proper disposition of the ballot after the elector is finished voting;

(c) how to obtain a new ballot in place of one spoiled by accident; and

(d) how to vote provisionally pursuant to 13-13-601.

(3) The information required in subsection (2) must also be posted at each polling place along with the election date, the hours the polls are open, and instructions for mail-in registrants and first-time voters.

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

(5) Sample ballots, clearly marked "sample" across the face, must be posted at each voting station and in conspicuous places around the polling place.

**13-13-114. Voter identification and marking precinct register book before elector votes — provisional voting.** (1) (a) Before an elector is permitted to receive a ballot or vote, the elector shall present to an election judge a current photo identification showing the elector's name. If the elector does not present photo identification, including but not limited to a valid driver's license, a school district or postsecondary education photo identification, or a tribal photo identification, the elector shall present a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document that shows the elector's name and current address.

(b) An elector who provides the information listed in subsection (1)(a) may sign the precinct register and must be provided with a regular ballot to vote.

(c) If the information provided in subsection (1)(a) differs from information in the precinct register but an election judge determines that the information provided is sufficient to verify the voter's

identity and eligibility to vote pursuant to 13-2-512, the elector may sign the precinct register, complete a new registration form to correct the elector's voter registration information, and vote.

(d) An election judge shall write "registration form" beside the name of any elector submitting a form.

(2) If the information presented under subsection (1) is insufficient to verify the elector's identity and eligibility to vote or if the elector's name does not appear in the precinct register or appears in the register as provisionally registered and this provisional registration status cannot be resolved at the polling place, the elector may sign the precinct register and cast a provisional ballot as provided in 13-13-601.

(3) If the elector fails or refuses to sign the elector's name or if the elector is disabled and a fingerprint, an identifying mark, or a signature by a person authorized to sign for the elector pursuant to 13-1-116 is not provided, the elector may cast a provisional ballot as provided in 13-13-601.

**13-13-118. Taking ballot to disabled elector.** (1) The chief election judge may appoint two election judges who represent different political parties to take a ballot to an elector able to come to the premises where a polling place is located but unable to enter the polling place because of a disability. If election judges who represent different political parties are not available, the chief election judge shall appoint two election judges to assist the elector. The elector may request assistance in marking the ballot as provided in 13-13-119.

(2) The judges shall have the elector sign an oath form stating that the elector is entitled to vote and shall write in the precinct register by the elector's name "voted on the premises by oath" and sign their names.

(3) When the ballot or ballots are marked and folded, the judges shall immediately take them into the polling place and give them to the judge at the ballot box. Any challenge to the elector's right to vote must be resolved as provided in Title 13, chapter 13, part 3.

**13-13-119. Aid to disabled elector.** (1) When a disabled elector enters a polling place, an election judge shall ask the elector if the elector wants assistance.

(2) An election judge or an individual chosen by the disabled elector as specified in subsection (5) may aid an elector who, because of physical disability or inability to read or write, needs assistance in marking the elector's ballot.

(3) The election judges shall require a declaration of disability by the elector. The declaration must be made under oath, which must be administered by an election judge.

(4) The elector may be assisted by two judges who represent different parties. If election judges who represent different political parties are not available, the chief election judge shall appoint two election judges to assist the elector. The judges shall certify on the precinct register opposite the disabled elector's name that the ballot was marked with their assistance. The judges may not reveal information regarding the ballot.

(5) Instead of assistance as provided in subsection (4), the elector may request the assistance of any individual the elector designates to the judges to aid the elector in the marking of the elector's ballot. An individual designated to assist the elector shall sign the individual's name on the precinct register beside the name of the elector assisted. The individual chosen may not be the elector's employer, an agent of the elector's employer, or an officer or agent of the elector's union.

(6) No elector other than the elector who requires assistance may divulge to anyone within the polling place the name of any candidate for whom the elector intends to vote or may ask or receive the

assistance of any individual within the polling place in the preparation of the elector's ballot.

**13-13-246. Electronic ballots for disabled persons — procedures — definition — rulemaking.**

(1) (a) Upon a written or an in-person request from a legally registered or provisionally registered elector with a disability, an election administrator shall provide the elector with an **electronic ballot**.

(b) The request may be made by electronic mail.

(2) (a) After receiving a request and verifying that the elector is legally registered or provisionally registered, the election administrator **shall provide to the elector an electronic ballot, instructions for completing the ballot, a secrecy envelope, and a transmittal cover sheet that includes an elector affirmation**. If the elector is provisionally registered, the election administrator shall include instructions about what information the elector shall include with the voted ballot pursuant to 13-13-201(4).

(b) The election administrator shall maintain an official log of all ballots provided pursuant to this section.

(c) **After voting the ballot, the elector shall print the ballot, place it in the secrecy envelope, sign the affirmation, including by fingerprint, mark, or agent pursuant to 13-1-116, or provide a driver's license number or the last four digits of the elector's social security number**. If the elector is provisionally registered, the elector shall also return sufficient voter identification and eligibility information to allow the election administrator to determine pursuant to rules adopted under 13-2-109 that the elector is legally registered. The elector shall return the voted ballot and affirmation in a manner that ensures both are received by 8 p.m. on election day.

(d) An elector may return the voted ballot and affirmation in the regular mail provided they are received at the office of the election administrator by 8 p.m. on election day. A valid ballot must be counted if it is received at the office of the election administrator by 8 p.m. on election day.

(3) After receiving a ballot and secrecy envelope and if the validity of the ballot is confirmed pursuant to 13-13-241, the election administrator shall log the receipt of the ballot and process it as required in Title 13, chapter 13. If the ballot is rejected, the election administrator shall notify the elector pursuant to 13-13-245.

(4) (a) **When performing the procedures prescribed in 13-13-241(7) to open secrecy envelopes, an election official shall place in a secure absentee ballot envelope any ballot returned pursuant to this section that requires transcription**. No sooner than the time provided in 13-13-241(7), the election administrator shall transcribe the returned ballots using the procedure prescribed below and in accordance with any rules established by the secretary of state to ensure the security of the ballots and the secrecy of the votes.

(b) **No fewer than three election officials shall participate in the transcription process to transfer the elector's vote from the received ballot to the standard ballot used in the precinct**.

(c) A number must be written on the secrecy envelope that contains the original voted electronic ballot, and the same number must be placed on the transcribed ballot and in the official log.

(d) The election officials who transcribed the original voted electronic ballot shall sign the log next to the number.

(e) No one participating in the ballot transmission process may reveal any information about the ballot.

(5) The secretary of state shall adopt rules to implement and administer this section, **including rules to ensure the security of the ballots and the secrecy of the votes**.

(6) For the purposes of this section, "disability" has the meaning provided in 13-3-202.

**13-19-301. Voting mail ballots.** (1) Upon receipt of a mailed ballot, the elector may vote by:

(a) marking the ballot in the manner specified;

(b) placing the marked ballot in the secrecy envelope, free of any identifying marks;

(c) placing the secrecy envelope containing one ballot for each election being held in the signature envelope;

(d) executing the affirmation printed on the signature envelope; and

(e) returning the signature envelope with all appropriate enclosures, as provided in 13-19-306.

(2) For the purpose of this chapter, an official ballot is voted when the marked ballot is received at a place of deposit.

(3) A legally registered or provisionally registered elector with a disability may receive and vote a ballot using procedures established in 13-13-246.

## Rule Subchapter: 44.3.1

Subchapter Title: Voting Accessibility



[44: SECRETARY OF STATE](#)

[44.3: ELECTIONS](#)

44.3.1: Voting Accessibility



[Add to Favorites](#)

Click on the rule number to see the detail of the rule

Press **Ctrl-F** to search by text.

Rule No	Rule Title	Latest Version	Effective Date
<a href="#">44.3.101</a>	INTRODUCTION, SCOPE, AND INTENT		4/13/2012
<a href="#">44.3.102</a>	ROLE OF SECRETARY OF STATE		6/27/2008
<a href="#">44.3.103</a>	DEFINITIONS	REP	4/13/2012
<a href="#">44.3.104</a>	GUIDELINES FOR POLLING PLACE ACCESSIBILITY		5/28/2010
<a href="#">44.3.105</a>	SURVEY PROCEDURE TO DETERMINE ACCESSIBILITY		6/25/2010
<a href="#">44.3.106</a>	EXEMPTION PROCEDURE		6/25/2010
<a href="#">44.3.107</a>	EMERGENCY EXEMPTION		6/27/2008
<a href="#">44.3.108</a>	POLLING PLACE DESIGNATION		6/27/2008
<a href="#">44.3.109</a>	VOTING ACCESSIBILITY ADVISORY COMMITTEE		6/27/2008
<a href="#">44.3.110</a>	ALTERNATIVE MEANS FOR CASTING BALLOT		10/1/2015
<a href="#">44.3.111</a>	THE ELDERLY ELECTOR		3/28/1986
<a href="#">44.3.112</a>	THE VISUALLY IMPAIRED		3/28/1986
<a href="#">44.3.113</a>	TELECOMMUNICATIONS DEVICE FOR THE HEARING IMPAIRED		6/27/2008
<a href="#">44.3.114</a>	COMPLAINTS		10/27/2006
<a href="#">44.3.115</a>	CRITERIA AND PROCESS FOR A PERSON TO BECOME A DESIGNATED AGENT FOR AN ELECTOR WITH A DISABILITY		10/27/2006
<a href="#">44.3.116</a>	ELECTRONIC TRANSMISSION OF VOTING MATERIALS		10/1/2015

#### 44.3.101 INTRODUCTION, SCOPE, AND INTENT

(1) The purpose of these rules is to establish minimum guidelines to be used in determining whether facilities used for voting in certain elections are accessible to electors with disabilities and elderly electors pursuant to the Americans With Disabilities Act, 42 U.S.C. 12132, and the **Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. 1973ee, et seq.**

(2) It is the intent of the secretary of state's office that county governing bodies and election administrators work together and proceed in good faith to fully comply with the Americans With Disabilities Act.

(3) For the purpose of clarity and throughout these rules, the Voting Accessibility for the Elderly and Handicapped Act shall be referred to as the Voting Accessibility Act. The Americans With Disabilities Act will be referred to as the ADA.

(4) These rules shall only apply to federal elections conducted under [13-1-104](#) and [13-1-107](#), MCA.

History: [13-1-202](#), [13-3-205](#), MCA; IMP, [13-1-202](#), [13-3-205](#), MCA; NEW, 1986 MAR p. 462, Eff. 3/28/86; AMD, 2006 MAR p. 2671, Eff. 10/27/06; AMD, 2012 MAR p. 760, Eff. 4/13/12.

#### 44.3.102 ROLE OF SECRETARY OF STATE

(1) The Secretary of State is empowered under the Voting Accessibility Act, [13-1-202](#), MCA, and these rules to:

(a) establish guidelines that define and determine **accessibility at the polling place**;

(b) prescribe the forms and materials necessary to ensure uniformity in the surveying of polling places;

(c) determine what constitutes an emergency that allows an exemption from accessibility status;

(d) grant exemptions to the requirement that a polling place shall be accessible to the elderly and individuals with disabilities;

(e) establish procedures to ensure that any individual with a disability or elderly voter assigned to an inaccessible polling place will be provided with an alternative means for casting a ballot on election day;

(f) provide public notice, calculated to reach individuals with disabilities or elderly electors in a timely manner, of the:

(i) availability of aids under the Voting Accessibility Act;

(ii) assistance under **section 208 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-6)**; and

(iii) procedures for voting by absentee ballot; and

(g) report to the applicable federal agency, in a manner to be determined by the agency:

(i) the number of accessible polling places in the state;

(ii) the number of inaccessible polling places; and

(iii) the reasons for each instance of inaccessibility.

(2) These are the rules adopted to establish and maintain uniformity in the implementation of the Voting Accessibility Act.



History: **This rule is advisory only**, but may be considered a correct interpretation of the law. [13-3-205](#), MCA; [IMP](#), [13-3-205](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08.

#### **44.3.104** GUIDELINES FOR POLLING PLACE ACCESSIBILITY

(1) Polling places approved on or after October 1, 2005, must comply with the accessibility standards in **the Americans With Disabilities Act of 1990**, 42 U.S.C. 12101, et seq. Completed forms prescribed by the Secretary of State pursuant to [ARM 44.2.102](#)(1)(b) are the method by which an election administrator must demonstrate the compliance of each polling place with this subchapter.

History: [13-3-205](#), MCA; [IMP](#), [13-3-205](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 2006 MAR p. 2671, Eff. 10/27/06; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08; [AMD](#), 2010 MAR p. 1319, Eff. 5/28/10.

#### **44.3.105** SURVEY PROCEDURE TO DETERMINE ACCESSIBILITY

(1) Unless specified otherwise, the election administrator shall conduct an on-site survey in each polling place 45 days prior to utilizing that facility, as provided in [ARM 44.3.109](#), to determine whether such facilities are in compliance with the criteria set forth in these rules.

(2) Election administrators should encourage county commissioners, election judges, members of the election administrator's staff, and a voting accessibility advisory committee to participate in the survey procedure.

(3) The survey shall be conducted in such a manner as to represent the actual path of travel an elector would take upon arrival at the polling place on election day.

(4) A form prescribed by the Secretary of State shall be used as a checklist for each polling place surveyed. Copies of the survey shall be made available for public inspection and to the Secretary of State upon request, except as provided in (5).

(5) If an existing polling place fails to satisfy the criteria for accessibility and cannot be permanently or temporarily altered in a safe and reasonable manner to satisfy the criteria before the date of the election, it will be designated "inaccessible" and shall not be used unless an exemption is granted by the Secretary of State in accordance with the provisions of [ARM 44.3.106](#).

(6) A copy of all survey forms for polling places shall be forwarded to the Secretary of State 45 days prior to the election for which the survey was conducted.

(7) A request for exemption form, as prescribed by the Secretary of State, and defined in [ARM 44.3.106](#), shall be attached to the survey for those polling places designated as "inaccessible".

History: [13-3-205](#), MCA; [IMP](#), [13-3-206](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 1996 MAR p. 3221, Eff. 12/20/96; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08; [AMD](#), 2010 MAR p. 1545, Eff. 6/25/10.

#### **44.3.106 EXEMPTION PROCEDURE**

(1) If an existing polling place has been surveyed and designated as "inaccessible", the election administrator shall make a reasonable effort to seek and survey for accessibility other potential sites with comparable utility as a polling place.

(2) If potential polling place facilities have been surveyed and no accessible facility is available and the facilities which are available cannot safely and reasonably be made temporarily accessible, the election administrator shall request in writing to the Secretary of State that the existing polling place be exempt from the criteria set forth in these rules.

(3) A separate request for exemption shall be submitted for each polling place not in compliance. The request shall identify the polling place, how it is not in compliance, the efforts being made to bring it into compliance, and the efforts to locate an alternate site.

(4) Within 30 days following the receipt of a request for exemption, the Secretary of State may grant a certification of exemption to the election administrator for that polling place. Such exemption, if granted, shall be valid for a period of three years from the date of issuance.

(5) The Secretary of State may grant an exemption pursuant to this subchapter if all potential polling places have been surveyed and the election administrator has certified that:

(a) an accessible polling place is not available and the county cannot safely or reasonably make a polling place temporarily accessible in the area involved; or

(b) the location is designated inaccessible because it is a rural polling place and designation of an accessible facility as a polling place will require excessive travel or impose other hardships for the majority of qualified electors in the polling place.

(6) If the Secretary of State has reason to believe such an exemption would not be in the best interest of the majority of the individuals with disabilities or elderly electors, he shall deny the exemption and:

(a) report to the election administrator and the county governing body his reasons for the denial.

(7) A polling place designated 45 days prior to an election as inaccessible because it is rural shall be exempt from the on-site survey procedure provided in ARM [44.3.108](#).

(8) If one or more individuals with disabilities or elderly electors contact the election administrator or the Secretary of State concerning a specific exemption, the Secretary of State shall work in cooperation with the election administrator and the individuals with disabilities or elderly person(s) in locating an available facility that is accessible or providing an acceptable alternative method of voting according to the provisions in ARM [44.3.110](#).

History: [13-3-205](#), MCA; [IMP](#), [13-3-207](#), [13-3-212](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 1996 MAR p. 3221, Eff. 12/20/96; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08; [AMD](#), 2010 MAR p. 1545, Eff. 6/25/10.

#### 44.3.107 EMERGENCY EXEMPTION

(1) If a polling place designated "accessible" becomes unavailable for reasons such as loss of lease, fire, snow, or other natural disasters less than ten days prior to an election, an emergency exists and an alternate polling place shall be selected.

(2) The alternate polling place shall be considered temporary and shall be exempt from the procedures established by these rules, except for the provisions provided by ARM [44.3.111](#) and [44.3.112](#).

(3) The alternate polling place shall not be used in the next ensuing election unless it is subject to the procedures provided in ARM [44.3.105](#) and [44.3.106](#).

History: **This rule is advisory only**, but may be considered a correct interpretation of the law. [13-3-205](#), MCA; [IMP](#), [13-3-211](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08.

#### 44.3.109 VOTING ACCESSIBILITY ADVISORY COMMITTEE

(1) An election administrator may establish one or more voting accessibility advisory committee(s) (V.A.A.C.).

(2) Each committee shall consist of a minimum of three members, two of which shall represent an organization of elderly persons or an organization of individuals with disabilities.

(3) The committee may assist in surveying polling places for compliance with accessibility guidelines.

(4) The election administrator shall provide the Secretary of State with a list of the members of each voting accessibility advisory committee, including addresses and telephone numbers.

(5) Each member of the committee may be compensated for the number of hours worked and reimbursed for actual travel expenses incurred while participating in the conduct of an on-site survey.

(6) The election administrator may pay each member the same compensation and certify amounts due in the same manner as for an election judge as provided by [13-4-106](#)(1), MCA.

History: **This rule is advisory only**, but may be considered a correct interpretation of the law. [13-3-205](#), MCA; [IMP](#), [13-3-205](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08.

#### 44.3.110 ALTERNATIVE MEANS FOR CASTING BALLOT

(1) The election administrator shall provide an alternative method of voting for those electors who are unable, because of disability or age, **to access their regular polling place**. Those methods are limited to the following:

(a) the practice, commonly referred to as "curbside voting", as provided by [13-13-118](#), MCA;

(b) absentee balloting, as provided by [13-13-222](#) and [13-13-246](#), MCA; and

(c) prearranged assignment to an accessible polling place within the county. An elector, prevented from voting at his own polling place on election day because it has been exempt from meeting the accessibility criteria set forth in these rules, shall:

(i) notify the election administrator, in writing at least seven days preceding the election, of his desire to vote on election day at an accessible polling place;

(ii) be assigned to the nearest accessible polling place for the purpose of voting in that election;

(iii) sign his name on a special addendum to the official precinct register, as required by [13-2-601](#), MCA; and

(iv) receive the same ballot to which he is otherwise entitled.

(2) For the purposes of this rule, the ballot shall be processed and counted in the same manner as an absentee ballot.

History: [13-3-205](#), [13-13-246](#), MCA; [IMP](#), [13-3-213](#), [13-13-246](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08; [AMD](#), 2015 MAR p. 1286, Eff. 10/1/15.

#### [44.3.111](#) THE ELDERLY ELECTOR

(1) The Voting Accessibility Act defines "elderly" as 65 years of age or older.

(2) The following requirements are intended to benefit elderly electors and shall be implemented by the 1986 June primary election:

(a) Election administrators shall conspicuously display instructions for voting, printed in over-size type, preferably 18 point type, or larger, at each polling place for every election and instructions for registering at each permanent registration facility.

(b) Each polling place shall have a desk, table, or other surface no more than 36 inches in height, with room to accommodate a chair or a wheelchair to permit physically feeble or mobility-impaired electors to vote in a seated position. Adequate privacy shall be provided to ensure the seated elector the same degree of ballot secrecy enjoyed by other electors.

(c) **In all polling places in which a stylus is used to mark voting device ballots, at least one stylus shall have a large, easily graspable handle.** At least one pen or pencil in each polling place shall be over-sized and easily graspable.

(d) Extra seating shall be provided for elderly electors to rest while waiting their turn to vote. Election judges shall ensure that the seating is available for those for whom it is intended.

History: **This rule is advisory only**, but may be considered a correct interpretation of the law. [13-1-202](#), [13-13-111](#), [13-13-112](#), MCA; [IMP](#), [13-1-202](#), [13-13-111](#), [13-13-112](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86.

#### **44.3.112 THE VISUALLY IMPAIRED**

(1) Visually impaired persons can range from those with slight visual problems, not correctable by normal means, to the totally blind. In addition to the large-type printing requirements, as provided by ARM [44.3.111](#)(2)(a), requirements and suggestions for the visually impaired electors include the following:

- (a) adequate lighting shall be provided in both the voting booth and the polling place;
- (b) a magnifying glass may be provided in those polling places where the election administrator's common knowledge indicates a need; and
- (c) a plastic or cardboard card with a space cut out for a signature may be provided as a guide for signing a precinct register.

History: **This rule is advisory only**, but may be considered a correct interpretation of the law. [13-1-202](#), [13-13-111](#), [13-13-112](#), MCA; [IMP](#), [13-1-202](#), [13-13-111](#), [13-13-112](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86.

#### **44.3.113 TELECOMMUNICATIONS DEVICE FOR THE HEARING IMPAIRED**

(1) Sixty days prior to each election, the Secretary of State shall install and advertise access to a toll-free telecommunications device for the deaf (TDD) for the purpose of providing:

- (a) information on registration;
  - (b) voting aids available for the handicapped;
  - (c) assistance under section 208 of the Voting Rights Act of 1965; and
  - (d) procedures for voting by absentee ballot.
- (2) The Secretary of State shall advertise the TDD number wherever possible.

History: **This rule is advisory only**, but may be considered a correct interpretation of the law. [13-3-205](#), MCA; [IMP](#), [13-3-205](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 2008 MAR p. 1329, Eff. 6/27/08.

#### **44.3.114 COMPLAINTS**

(1) Within five working days following the receipt of a written notification from the United State's Attorney General or a person who is personally aggrieved by the noncompliance of his polling place with the Voting Accessibility Act, the Americans With Disabilities Act, and/or these rules, the Secretary of State shall transmit a copy of the notification to the appropriate election administrator.

(2) Upon receipt of the notification, the election administrator shall forward to the Secretary of State a copy of the survey form concerning the polling place in question.

(3) Within 30 days of receipt of the notification, the Secretary of State shall cause an independent survey of the polling place to be conducted. A report of that survey shall be provided to the complainant and the election administrator.

(4) If the complainant requests, in writing, that further action be taken, the Secretary of State may call for a hearing in which the complainant, election administrator,

representatives of the county governing body, affected groups and his office may be represented.

(a) The purpose of the hearing is to show cause why the particular polling place facility should be:

(i) denied exemption from meeting the criteria established for accessibility by these rules;

(ii) be denied an "accessible" rating; or

(iii) be declared unacceptable for use as a polling place facility and no longer utilized for that purpose.

(5) At any time before, during, or after this process the complainant retains the right to file an action in any court of appropriate jurisdiction or to withdraw the complaint. No exhaustion of this administrative remedy is required.

History: **This rule is advisory only**, but may be considered a correct interpretation of the law. [13-1-202](#), [13-3-205](#), MCA; [IMP](#), [13-1-202](#), [13-3-205](#), MCA; [NEW](#), 1986 MAR p. 462, Eff. 3/28/86; [AMD](#), 2006 MAR p. 2671, Eff. 10/27/06.

#### **44.3.115 CRITERIA AND PROCESS FOR A PERSON TO BECOME A DESIGNATED AGENT FOR AN ELECTOR WITH A DISABILITY**

(1) Consistent with [13-1-116](#), MCA, an elector with a disability who is unable to provide a signature may apply to the election administrator to have another person designated as an agent for purposes of providing a signature or identifying mark required pursuant to Title 13, MCA, and for delivering the disabled elector's absentee ballot application to the county election administrator, as provided in [13-13-213](#), MCA.

(2) An application for designation of an agent by an elector under this section:

(a) must be made on a form prescribed by the Secretary of State which shall state the authorization of the elector, the purpose of the agency, and shall require that the authorization be witnessed by two disinterested witnesses and signed by the designated agent;

(b) may be obtained from local election officials, from the office of the Secretary of State, and from any other entity that provides the form; and

(c) must be completed in its entirety.

(3) An agent chosen under this rule must not be the elector's employer, an agent of the individual's employer, or an officer or agent of the voter's union.

(4) An election official must ask if the person being designated an agent is the voter's employer or employer's agent or officer or agent of the voter's union. If the proposed agent is one of those individuals, the voter must choose another person to be the elector's agent.

(5) An agent must be chosen by the individual with a disability.

History: [13-1-116](#), MCA; [IMP](#), [13-1-116](#), MCA; [NEW](#), 2006 MAR p. 2671, Eff. 10/27/06.



#### **44.3.116 ELECTRONIC TRANSMISSION OF VOTING MATERIALS**

(1) County election administrators shall allow electors with disabilities, as defined in [13-3-202](#), MCA, to receive election materials electronically as long as the security of transmission and identity of each elector is confirmed and facilities are available to maintain the accuracy, integrity, and secrecy of the ballot process. The following procedures shall be followed, wherever applicable, in regard to the transition of election materials from the election administrator to electors electronically:

(a) A county election administrator must use a system that is secure from unauthorized access.

(b) When an election administrator receives a valid application for electronic transmission of a ballot from an elector with disabilities, the election administrator shall, subject to (1), e-mail the elector the ballot, instructions to the elector, and a transmittal cover sheet that includes an elector affirmation. **A ballot secrecy envelope and a ballot signature envelope shall be provided either electronically or through the mail** to each elector with a valid application for electronic ballot. The original ballot shall be retained in a secure absentee envelope or container for that purpose.

(c) The election administrator shall keep an official log of all ballots transmitted electronically.

(d) If the received ballot is acceptable, the election administrator shall, without opening the envelope containing the voted ballot, log in the receipt of the ballot and place it in the secure absentee envelope or container with the original ballot. The transmittal cover sheet with affirmation must be retained in a sealed envelope or container separately from the ballots.

(e) On the day before election day or on election day, the election administrator shall have the returned ballots transcribed using the procedure prescribed below.

(f) The voted ballot must be transcribed in a manner that ensures that no one transcribing the ballot has access to the name of the elector who voted the ballot.

(g) No less than three election officials shall participate in the transcription process to transfer the elector's votes from a received ballot, as applicable, to the standard ballot used in the precinct.

(h) An electronically transmitted ballot identifying number shall be written on the original transcribed ballot, the envelope containing the voted ballot and the electronically transmitted ballot, and in the official transcription log.

(i) The election officials who transcribed the electronically transmitted ballot shall sign the log for each ballot they transcribe.

(j) No one participating in the electronic ballot transmission or transcription process may reveal any information about the elector's identity or the votes on the elector's ballot.

History: [13-13-246](#), MCA; [IMP](#), [13-13-246](#), MCA; [NEW](#), 2015 MAR p. 1286, Eff. 10/1/15.

**FROM SECRETARY OF STATE'S WEBSITE**

**<http://sos.mt.gov/elections/officials/forms/index#384234559-accessibility-forms>**

Accessibility Forms

[Oath of Elector Unable to Enter or Needing Assistance in Polling Place](#)

[Notice of Polling Place Locations and Accessibility Designations](#)

[Special Addendum to Precinct Register](#) (Word) [PDF](#) version

[Accessibility Survey Checklist and Appendix I, II, III and IV](#)

[Polling Place Exemption Request](#)

[Polling Place Accessibility Complaint Form](#)

[Designation of Agent by Individual with Disability](#) (Word) [PDF](#) version

[Absentee Application for Electronic Ballot for Individual with Disability](#)

















[Electronic Ballot Transmission Cover Sheet for Individual with Disability](#)

[Electronic Ballot Transcription Log](#)








[Low Vision Forms](#)



# VOTING MACHINES AND BALLOT UNIFORMITY

<u>Subchapter 17</u> <u>Voting Machines and Devices and Postelection Audit of Voting Machines</u>			
<a href="#"><u>44.3.1701</u></a>	EXAMINATION OF VOTING MACHINES AND DEVICES		4/13/2012
<a href="#"><u>44.3.1702</u></a>	CONDUCT OF EXAMINATION		12/28/1979
<a href="#"><u>44.3.1703</u></a>	CRITERIA OF CONSTRUCTION		4/13/2012
<a href="#"><u>44.3.1704</u></a>	CRITERIA OF EXAMINATION		6/25/2010
<a href="#"><u>44.3.1705</u></a>	COSTS OF EXAMINATION	REP	12/20/1996
<a href="#"><u>44.3.1706</u></a>	NOTIFICATION TO APPLICANT		6/25/2010
<a href="#"><u>44.3.1707</u></a>	APPEAL FROM DISAPPROVAL		6/25/2010
<a href="#"><u>44.3.1708</u></a>	WAIVER OF CONDITIONS		12/20/1996
<a href="#"><u>44.3.1709</u></a>	EXPERIMENTAL USE OF VOTING MACHINES OR DEVICES	REP	12/20/1996
<a href="#"><u>44.3.1710</u></a>	EXTENSION OF PREVIOUS APPROVAL OF VOTING MACHINES OR DEVICES		6/25/2010
<a href="#"><u>44.3.1711</u></a>	BENCHMARK PERFORMANCE STANDARD FOR VOTING SYSTEMS PRIOR TO CERTIFICATION		10/27/2006
<a href="#"><u>44.3.1712</u></a>	PERFORMANCE CERTIFICATION OF VOTING SYSTEMS PRIOR TO ELECTION		6/27/2008
<a href="#"><u>44.3.1713</u></a>	UNIFORM PROCEDURES FOR USING VOTING SYSTEMS		6/25/2010
<a href="#"><u>44.3.1714</u></a>	HANDLING VOTING MACHINE ERROR DURING COUNT		4/13/2012
<a href="#"><u>44.3.1715</u></a>	METHOD OF CORRECTION OF BALLOT	TRANS	9/6/2013
<a href="#"><u>44.3.1716</u></a>	REJECTED BALLOTS	TRANS	9/6/2013
<a href="#"><u>44.3.1717</u></a>	SEALING BALLOTS AND VOTING SYSTEMS		6/25/2010
<a href="#"><u>44.3.1718</u></a>	DEFINITIONS		4/16/2010
<a href="#"><u>44.3.1719</u></a>	SELECTION PROCESS FOR RANDOM-SAMPLE AUDIT		4/16/2010
<a href="#"><u>44.3.1720</u></a>	REPORTING PROCESS FOR RANDOM-SAMPLE AUDIT		4/13/2012

**Subchapter 24**  
**Ballot Form and Uniformity and Determining a Valid Vote**

<a href="#"><u>44.3.2401</u></a>	BALLOT FORM AND UNIFORMITY	REP	4/13/2012
<a href="#"><u>44.3.2402</u></a>	DETERMINING A VALID VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS		4/13/2012
<a href="#"><u>44.3.2403</u></a>	DETERMINING A VALID WRITE-IN VOTE IN MANUALLY COUNTING AND RECOUNTING PAPER BALLOTS		4/13/2012
<a href="#"><u>44.3.2404</u></a>	DETERMINING A VALID VOTE ON AN ELECTRONIC VOTING SYSTEM		4/16/2010
<a href="#"><u>44.3.2405</u></a>	DETERMINING A VALID VOTE ON A FEDERAL WRITE-IN ABSENTEE BALLOT		1/1/2014
<a href="#"><u>44.3.2406</u></a>	APPLICABILITY TO ELECTIONS ALLOWING VOTES FOR MORE THAN ONE CANDIDATE FOR A POSITION		1/16/2004
<a href="#"><u>44.3.2407</u></a>	METHOD OF CORRECTION OF BALLOT		9/6/2013
<a href="#"><u>44.3.2408</u></a>	BALLOT FORM AND UNIFORMITY		9/6/2013

# Ballot Form And Uniformity

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

- (a) the manner in which each type of ballot may be corrected under **13-12-204**;
- (b) what provisions must be made on the ballot for write-in candidates;
- (c) the size and content of stubs on paper ballots, except as provided in **13-19-106(1)**;
- (d) how unvoted ballots must be handled;
- (e) how the number of individuals voting and the number of ballots cast must be recorded; and
- (f) the order and arrangement of voting system ballots.

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

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

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

**History:** En. Sec. 91, Ch. 368, L. 1969; R.C.M. 1947, 23-3508(4); amd. Sec. 93, Ch. 571, L. 1979; amd. Sec. 22, Ch. 414, L. 2003; amd. Sec. 26, Ch. 242, L. 2011.

## 44.3.2408 BALLOT FORM AND UNIFORMITY

(1) The secretary of state adopts and incorporates by reference the document entitled "Ballot Form and Uniformity Pursuant to [13-12-202](#) MCA Layout Instructions and Sample Ballots," which is available on the secretary of state's web site at the following link: <http://sos.mt.gov/Elections/Officials/Forms/index.asp>, updated March 20, 2012.

(2) The document incorporated by reference is provided to each election administrator and contains guidelines that prescribe the ballot form for each type of ballot used in this state, giving guidelines as to font, spacing, and printed instructions, to conform to the requirements of [13-12-202](#), MCA.

History: [13-1-202](#), [13-12-202](#), MCA; IMP, [13-1-202](#), [13-12-202](#), MCA; NEW, 2013 MAR p. 1699, Eff. 9/6/13.