



AN ACT GENERALLY REVISING ELECTION LAWS; PROVIDING THAT THE TWO CANDIDATES WHO RECEIVE THE MOST VOTES IN CERTAIN PRIMARY ELECTIONS FOR PARTISAN OFFICES ADVANCE TO THE GENERAL ELECTION IRRESPECTIVE OF PARTY AFFILIATION; ELIMINATING SEPARATE PARTY BALLOTS AND PROVIDING FOR ONE PRIMARY BALLOT CONTAINING ALL PRIMARY RACES; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 2-16-615, 5-2-402, 5-2-403, 5-2-404, 5-2-406, 7-2-2219, 7-3-176, 7-3-218, 7-3-313, 7-3-412, 7-3-512, 7-3-704, 7-3-1256, 7-4-2106, 7-4-2206, 7-4-2302, 7-4-2310, 7-4-4112, 13-1-101, 13-1-103, 13-4-102, 13-10-201, 13-10-203, 13-10-204, 13-10-209, 13-10-211, 13-10-301, 13-10-325, 13-10-326, 13-10-327, 13-10-402, 13-10-403, 13-10-404, 13-10-405, 13-10-501, 13-10-504, 13-10-505, 13-12-201, 13-12-202, 13-12-203, 13-12-205, 13-12-207, 13-13-214, 13-13-225, 13-13-241, 13-14-111, 13-14-112, 13-14-113, 13-14-114, 13-14-115, 13-14-117, 13-14-118, 13-15-201, 13-15-205, 13-15-206, 13-15-208, 13-15-405, 13-15-406, 13-15-507, 13-16-101, 13-16-201, 13-16-211, 13-16-412, 13-16-418, 13-16-419, 13-16-501, 13-17-103, 13-19-205, 13-21-205, 13-25-101, 13-25-201, 13-25-205, 13-25-303, 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, 13-37-218, 13-38-101, AND 13-38-201, MCA; REPEALING SECTIONS 13-10-302, 13-10-303, 13-10-305, 13-10-311, 13-10-502, 13-10-503, 13-10-507, 13-10-601, 13-10-602, 13-10-604, AND 13-38-204, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

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

"2-16-615. Filing of recall petitions -- mandamus for refusal. (1) Recall petitions for elected officers ~~shall~~ must be filed with the official who is provided by law to accept the declaration of ~~nomination~~ candidacy or petition for nomination for ~~such~~ the office. Recall petitions for appointed state officers ~~shall~~ must be filed with the secretary of state and for appointed county or municipal officers ~~shall~~ must be filed with the county election

administrator. Recall petitions for appointed officers from other political subdivisions ~~shall~~ must be filed with the county election administrator if the boundaries of the political subdivisions lie wholly within one county or otherwise with the secretary of state.

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

(3) All ~~such~~ suits or appeals ~~therefrom shall~~ under this section must be advanced on the court docket and heard and decided by the court as expeditiously as possible.

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

Section 2. Section 5-2-402, MCA, is amended to read:

"5-2-402. Appointment by board of county commissioners -- county central committee role -- timeframes. (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district for senate candidates of the party to which the person vacating the seat belonged may be counted. The secretary of state shall provide an estimate of the number of votes cast for each party by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a vacant legislative seat under this section is as follows:

(a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the board of county commissioners, and if the vacating legislator marked a party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, the secretary of state shall notify the relevant county central committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is an did not mark a party preference, marked "independent", or marked a party preference for a party that does not have a county central committee as the party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.

(b) The county central committee or committees, upon receipt of notification of a vacancy, have 45 days

to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

- (i) after receiving the list of prospective appointees from the county central committee or committees;
- (ii) after 45 days have expired after the notification of vacancy if the county central committee or committees have not provided a list of prospective appointees; or
- (iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

Section 3. Section 5-2-403, MCA, is amended to read:

"5-2-403. Appointee to be of same and political party preference. (1) Whenever an appointee's predecessor ~~served~~ declared a political party preference on the last declaration of candidacy filed with the secretary of state or election administrator as a member of a political party, the appointee named under 5-2-402 must be a member of or share a preference for the same political party and must be selected from a list of three individuals provided:

- (a) by the county central committee in a district within a single county; or
- (b) by the county central committees, acting together, in a multicounty district, as described in 5-2-402.

(2) Whenever the appointing board is unable to elect an appointee from the submitted list, the appointing board shall request a second list of three names from the county central committee or committees. The second list may not contain any of the names submitted on the first list. The appointing board shall then select an appointee from the individuals named on both lists.

(3) The provisions of this section do not apply if the predecessor ~~served~~ did not declare a party preference or preferred an independent party preference designation as an independent."

Section 4. Section 5-2-404, MCA, is amended to read:

"5-2-404. Procedure upon failure of one candidate to receive majority vote. In the event that a decision cannot be made by the appointing board because of failure of any candidate to receive a majority of the votes, the final decision may be made by lot from the first and second lists of candidates as provided by 5-2-403 or from a list of three individuals if the predecessor ~~served as an independent~~ did not declare a party preference or preferred an independent party preference designation on the predecessor's last declaration of candidacy filed with the secretary of state or election administrator, in accordance with rules of selection adopted by the appointing board."

Section 5. Section 5-2-406, MCA, is amended to read:

"5-2-406. Elections to fill vacancies in senate. (1) Whenever a vacancy occurs 85 days or more before the general election held during the second year of the term, an individual may be appointed, pursuant to 5-2-402, if the legislature is called into special session. However, the appointment may run only until a person is elected to complete the term at the upcoming general election and sworn into office. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs 85 days or more prior to the primary election during the second year, the same procedure as is used for senators who will be elected to full 4-year terms at that general election must be utilized.

(b) Whenever the vacancy occurs on or after the 85th day prior to the primary election, ~~any political party desiring to enter a candidate in the general election shall select a candidate~~ may enter the race as provided in 13-10-327 and 13-38-204. ~~A political party shall notify the secretary of state of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed with the secretary of state on or before the 85th day prior to the general election.~~

(2) Whenever a vacancy occurs on or after the 85th day prior to the general election held during the second year of the term, the person appointed by the board under 5-2-402 shall serve until the end of the term."

Section 6. Section 7-2-2219, MCA, is amended to read:

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

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

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

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

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

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

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

(3) Candidates for study commission positions must be electors of the local government for which the

study commission has been established. The candidates may not be elected officials of the local government.

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

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

Section 8. Section 7-3-218, MCA, is amended to read:

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

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

Section 9. Section 7-3-313, MCA, is amended to read:

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

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

Section 10. Section 7-3-412, MCA, is amended to read:

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

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

Section 11. Section 7-3-512, MCA, is amended to read:

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

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

Section 12. Section 7-3-704, MCA, is amended to read:

"7-3-704. Legislative body. (1) The charter ~~shall~~ must provide for an elected legislative body (called a commission or council) or ~~shall~~ must provide for a legislative body comprised of all qualified electors. For elected legislative bodies, the charter shall specify the number of members ~~thereof~~ of the body, their term of office, election on a partisan or nonpartisan basis, the grounds for their removal, and the method for filling vacancies.

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

- (a) at large;

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

Section 13. Section 7-3-1256, MCA, is amended to read:

"7-3-1256. Appointive officers not to seek other office. Any appointive officer or employee of the municipality who ~~shall become~~ becomes a candidate for ~~nomination or~~ election to any public office shall immediately forfeit the office or employment held under the municipality."

Section 14. Section 7-4-2106, MCA, is amended to read:

"7-4-2106. Vacancy on board of county commissioners -- resigning member not to participate in filling pending vacancy. (1) For the purposes of this part, "vacancy" has the same meaning as prescribed in 2-16-501.

(2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until the next general election unless otherwise provided in subsection (3) or (4). The procedure to be used to fill the vacancy is as follows:

(a) If the former incumbent ~~represented a party eligible for a primary election under 13-10-604~~ marked a party preference on the incumbent's most recent declaration of candidacy as filed with the election administrator and that party preference corresponds with a party with a county central committee organized under Title 13, chapter 38, part 2, the county central committee of that party shall submit to the remaining commissioners three names of people who have lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these three to fill the vacancy. Whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall request a second list of three names from the county central committee. The second list may not contain any of the names submitted on the first list. The remaining commissioners shall then select an appointee from the individuals

named on both lists.

(b) If the former incumbent was independent or ~~was originally nominated by~~ indicated a party preference on the incumbent's most recent declaration of candidacy as filed with the election administrator with a party that does not have a county central committee organized under Title 13, chapter 38, part 2, meet the requirements of 13-10-601 or if the vacancy occurs from a failure to elect, the remaining commissioners shall invite applications for the vacancy in a notice published as provided in 13-1-108 and shall accept an application from any person who has lived in the unrepresented district for at least 2 years preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these applicants to fill the vacancy.

(3) Whenever a vacancy occurs 75 days or more before the general election held during the second or fourth year of the term, an individual must be elected to complete the term at that general election. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs 75 days or more before the primary election during the second or fourth year of the term, the same procedure must be used as is used to elect county commissioners to full 6-year terms.

(b) Whenever the vacancy occurs after the 75th day preceding the primary election, ~~any political party desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political party shall notify the clerk and recorder of the party nominee. A~~ a person desiring to be a candidate as an independent on the ballot in the general election shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed file a declaration of candidacy with the clerk and recorder on or before the 75th day prior to the general election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

(4) Whenever a vacancy occurs after the 75th day preceding the general election held during the fourth year of the term, the person appointed by the remaining county commissioners under subsection (2) shall serve until the end of the term.

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

(b) If vacancies occur at different times but, because appointments have not yet been made, a quorum

cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint enough commissioners to allow for a quorum to be established. The county compensation board shall appoint each commissioner in the order that the vacancy occurred.

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

(ii) If a commissioner being replaced ~~represented a party eligible for a primary election under 13-10-601~~ marked a party preference on the incumbent's most recent declaration of candidacy and that party preference corresponds with a party with a county central committee organized under Title 13, chapter 38, part 2, the county central committee of that party shall, within 30 days of the occurrence of the vacancy, submit to the county compensation board three names of people who have lived in the unrepresented district for at least 2 years prior to the occurrence of the vacancy. The county compensation board shall appoint each commissioner from the list of names provided by the county central committee.

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

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

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

Section 15. Section 7-4-2206, MCA, is amended to read:

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

(2) Vacancies in all county offices, except that of county commissioner, must be filled by appointment by the board of county commissioners. Except as provided in subsections (3) through (5), the appointee holds the office, if elective, until the person elected at the next general election is certified pursuant to 13-15-406. If the office is not elective, the appointee serves at the pleasure of the commissioners.

(3) Whenever a vacancy occurs 75 days or more before the general election held during the second year

of the term, an individual must be elected to complete the term at that general election. The election procedure to be used to elect the successor is as follows:

(a) Whenever the vacancy occurs 75 days or more before the primary election during the second year of the term, the same procedure must be used as is used to elect a person to that office for a full 4-year term.

(b) Whenever the vacancy occurs after the 75th day before the primary election, any ~~political party desiring to enter a candidate in the general election shall select a candidate as provided in 13-38-204. A political party shall notify the clerk and recorder of the party nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for an independent candidate must be filed~~ file a declaration of candidacy with the clerk and recorder on or before the 75th day before the general election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

(4) Whenever a vacancy occurs after the 75th day before the general election held during the second year of the term, the person appointed by the commissioners under subsection (2) shall serve until the end of the term.

(5) Vacancies occurring in the office of justice of the peace must be filled as provided in Title 3, chapter 10, part 2."

Section 16. Section 7-4-2302, MCA, is amended to read:

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

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

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

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

(2) Whenever an order consolidating two or more offices is made, the order ~~shall~~ must be entered in full

on the board's minutes of proceedings.

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

Section 18. Section 7-4-4112, MCA, is amended to read:

"7-4-4112. Filling of vacancy. (1) When a vacancy occurs in any elective office, ~~this~~ the position is considered open and subject to ~~nomination and~~ election ~~at~~ during the next ~~general~~ municipal election cycle in the same manner as the election of any other person holding the same office, except the term of office is limited to the unexpired term of the person who originally created the vacancy. Pending an election and qualification, the council shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the office until a successor is elected and qualified.

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

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

Section 19. Section 13-1-101, MCA, is amended to read:

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

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

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

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

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

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

(6) "Candidate" means:

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

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

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

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

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

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

(ii) a transfer of funds between political committees;

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

(b) "Contribution" does not mean:

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

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

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

stockholders or employees; or

(iv) filing fees paid by the candidate.

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

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

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

~~(11)~~(12) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection ~~(7)~~ (8);

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

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

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

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

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

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

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

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

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

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

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

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

(21) "Partisan primary" means a presidential preference primary or a political party precinct committee officer race.

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

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

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

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

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

(c) as an earmarked contribution.

(23)(25) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for

officers or on a ballot issue.

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

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

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

~~(27)~~(29) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

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

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

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

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

~~(31)~~(34) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

~~(32)~~(35) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(36) "Top two primary" means the primary election process for partisan public offices, except political party precinct committee offices or elections for a presidential preference primary, to narrow the number of candidates for each office to the two candidates who, irrespective of political party preference, receive the highest number of votes cast in the race.

~~(33)~~(37) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an

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

~~(34)~~(38) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

~~(35)~~(39) "Voted ballot" means a ballot that is:

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

~~(36)~~(40) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

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

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

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

Section 21. Section 13-4-102, MCA, is amended to read:

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

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

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

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

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

Section 22. Section 13-10-201, MCA, is amended to read:

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

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

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

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

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

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

(b) In a top two primary, a declaration of political party preference is not evidence that the candidate has

been nominated or endorsed by the political party or that the party approves of or associates with that candidate.

~~(4)~~(5) The In a partisan primary, the declaration of candidacy, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

~~(5)~~(6) (a) The declaration ~~for nomination~~ of candidacy must be in the form and contain the information prescribed by the secretary of state.

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

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

~~(6)~~(7) (a) Except as provided in 13-10-211 and subsection ~~(6)(b)~~ (7)(b) of this section, a candidate's declaration ~~for nomination~~ of candidacy must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

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

~~(7)~~(8) A declaration ~~for nomination~~ of candidacy form may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state.

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

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

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

(c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning provided

in 2-16-214."

Section 23. 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, 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(6) and have been certified by the appropriate election administrator by the procedure provided in 13-27-303 and 13-27-304."~~

Section 24. Section 13-10-204, MCA, is amended to read:

"13-10-204. Write-in nominations candidates. (1) An individual ~~nominated~~ receiving the highest or second-highest number of votes in a primary election 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~~ may not have the individual's name appear on the general election ballot unless the individual:

- ~~_____ (a) received at least 5% of the total votes cast for the successful candidate for the same office at the last general election;~~
- ~~_____ (b) files with the secretary of state or election administrator, no later than 10 days after the official canvass, a written declaration indicating acceptance of the nomination; selection to advance and~~
 - (e) complies with the provisions of 13-37-126.

(2) A write-in candidate who was exempt from filing a declaration of intent under 13-10-211 shall, at the

time of filing the declaration of acceptance, pay the filing fee specified in 13-10-202 or, if indigent, file the appropriate documents statement described in 13-10-203."

Section 25. Section 13-10-209, MCA, is amended to read:

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

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

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

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

(2) (a) All offices and ballot issues must appear on one ballot. The ballot must be arranged to eliminate the possibility of widespread voter confusion.

~~(i) each~~ Each section ~~is~~ must be clearly identified as separate;

~~(ii) the nonpartisan offices and ballot issues appear on each party's ballot; and~~

~~(iii) with~~ (b) With respect to ballot issues, written approval is obtained as provided in 13-27-502.

~~(2)(3) An election administrator does is not need required to prepare a primary ballot for a political party~~
if:

~~_____ (a) the party does not have candidates for more than half of the offices to appear on the ballot; or~~
~~_____ (b) if no more than one candidate files for nomination by that party two candidates file for any of the offices to appear on the ballot.~~

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

~~_____ (4) The separate ballots for each party must have the same appearance. Each set of party ballots must bear the same number. If prepared as a separate ballot, the nonpartisan ballot may have a different appearance than the party ballots but must be numbered in the same order as the party ballots.~~

~~_____ (5) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may have a different appearance than the other ballots in the election but must be numbered in the same order.~~

- (5) (a) If a partisan primary is held, the ballot must contain the following:
 - (i) a clear and conspicuous, segregated area for the elector to mark the political party the elector wishes to affiliate with for the purposes of voting in the primary election;
 - (ii) an option for the elector to mark "none of the above" with respect to political party affiliation; and
 - (iii) a clear and conspicuous statement that only electors who mark a political party affiliation may vote on the partisan primary portion of the ballot.

(b) A vote cast in a partisan primary may be counted only if the elector has marked an affiliation with one political party, a vote cast in a partisan primary corresponds only to the marked party's primary, and the elector has voted only once for each office.

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

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

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

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

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

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense.

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

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

(5) A declaration of intent may be provided to the election administrator or secretary of state:

- (a) by facsimile transmission if a facsimile facility is available for receipt;

(b) in person; or

(c) by mail.

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

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

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

(a) an election is held;

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

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

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

Section 27. Section 13-10-301, MCA, is amended to read:

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

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

~~(3)~~(2) The elector's ballot must be handled as prescribed in 13-13-117."

Section 28. Section 13-10-325, MCA, is amended to read:

"13-10-325. Withdrawal from nomination election. (1) (a) A candidate ~~for nomination or candidate for election to an office~~ may withdraw from the election by sending a statement of withdrawal to the officer with whom the candidate's declaration, petition, or acceptance of ~~nomination~~ selection to advance was filed. The

statement must contain all information necessary to identify the candidate and the office sought. Unless filed electronically with the secretary of state, the statement of withdrawal from nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

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

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

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

Section 29. Section 13-10-326, MCA, is amended to read:

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

(a) if a candidate ~~for nomination~~ for a partisan office dies or withdraws 75 days or more before the primary election, an individual intending the affected political party may appoint someone to replace the ~~that~~ candidate ~~by~~ may use the procedure provided in ~~13-10-327~~ 13-10-201; or

(b) if a candidate ~~for nomination~~ for a partisan office who marked a party preference on the candidate's most recent declaration of candidacy dies less than 75 days before the primary election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327 if ~~a~~ the candidate for that office ~~for~~ who preferred or associated with that party was ~~not nominated at the primary election~~ selected to advance.

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

(a) if a candidate ~~for nomination~~ for a partisan office dies or withdraws 85 days or more before the primary election, ~~the affected political party may appoint someone~~ an individual intending to replace the candidate ~~by~~ in the primary election may use the procedure provided in ~~13-10-327~~ 13-10-201; or

(b) if a candidate ~~for nomination~~ for a partisan office who marked a party preference on the candidate's most recent declaration of candidacy dies less than 85 days before the primary election, the affected political party shall appoint a candidate after the primary election as provided in 13-10-327 if ~~a~~ the candidate for that office ~~for~~ who preferred or associated with that party was ~~not nominated at the primary election~~ selected to advance.

(3) This section does not allow a political party to appoint a candidate for an office if ~~no~~ a candidate for nomination ~~by~~ who declared a preference for that party ~~filed~~ did not file for the office before the primary election."

Section 30. Section 13-10-327, MCA, is amended to read:

"13-10-327. Vacancy after primary and prior to general election. (1) Except as provided in 13-10-328 for a vacancy in the candidacy of either governor or lieutenant governor caused by the death of a candidate, if a party candidate marked a party preference on the candidate's most recent declaration of candidacy filed with the secretary of state or election administrator and that candidate dies or withdraws after the primary and before the general election, the affected political party shall appoint someone to replace the candidate in one of the following ways:

(a) For offices to be filled by the state at large, the state central committee shall make the appointment as provided by the rules of the party.

(b) For offices to be filled in districts including more than one county, a committee appointed by the county central committees of all counties in the district shall make the appointment. Procedures for the appointment of the committee and making the appointment must be provided in party rules.

(c) For offices to be filled in counties, municipalities, or districts wholly within a county, the appointment must be made under rules adopted by the county central committee.

(2) Except as provided in this section, appointments to fill vacancies must be made no later than 76 days before the election. A candidate may not officially withdraw 85 days or less before a general election. However, if a candidate for partisan office dies less than 85 days before the general election, the affected political party for which the candidate declared a preference, as stated on the most recent declaration of candidacy form filed with the secretary of state or election administrator, shall appoint a candidate within 5 days after being notified of the vacancy. One of the procedures provided in 13-12-204 must be used to place the name of the appointee on the ballot if necessary.

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

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

Section 31. Top two primary restrictions -- exceptions. (1) If two or fewer candidates seek

advancement to the general election, those candidates shall immediately advance without appearing on the primary election ballot.

(2) The top two primary may not be used as a process for a political party to nominate or endorse a candidate for a partisan public office. A top two primary may not be construed as a regulation of how a political party may nominate or endorse a candidate. A party preference may not be used to limit the voting options available to a voter.

Section 32. Section 13-10-402, MCA, is amended to read:

"13-10-402. Ballot. (1) The regular party primary ballots ~~shall~~ must be used for the presidential preference primary election.

(2) The presidential section of the ballot ~~shall~~ must be placed before any other section; ~~whether~~ national, state, or local."

Section 33. Section 13-10-403, MCA, is amended to read:

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

Section 34. Section 13-10-404, MCA, is amended to read:

"13-10-404. Placement of candidate on primary ballot -- methods of qualification. Before an individual intending to qualify as a presidential candidate may qualify for placement on the ballot, the individual shall qualify by one or more of the following methods:

(1) The individual has submitted a ~~declaration~~ petition for nomination as provided in 13-10-501 to the secretary of state ~~pursuant to 13-10-201(2) and has been nominated on petitions with~~ containing the verified signatures of at least 500 qualified electors. ~~The secretary of state shall prescribe the form and content of the petition.~~

(2) The individual has submitted a declaration ~~for nomination~~ of candidacy to the secretary of state pursuant to 13-10-201, and the secretary of state has determined, by the time that declarations ~~for nomination~~ of candidacy are to be filed, that the individual is eligible to receive payments pursuant to the federal Presidential

Primary Matching Payment Account Act, 26 U.S.C. 9031, et seq."

Section 35. Section 13-10-405, MCA, is amended to read:

"13-10-405. Submission and verification of petition. Petitions of nomination for the presidential preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures are gathered at least 1 week before the primary election filing deadline prescribed in ~~13-10-201(6)(b)~~ 13-10-201(7)(b). A filing fee is not required. The election administrator shall verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and ~~must~~ shall forward the petitions to the secretary of state by the filing deadline prescribed in ~~13-10-201(6)(b)~~ 13-10-201(7)(b)."

Section 36. Section 13-10-501, MCA, is amended to read:

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

~~(2)(1) The~~ A petition for nomination must contain the same information and the oath of the candidate required for a declaration ~~for nomination of candidacy.~~

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

~~(4)(3) The form of the petition must be prescribed by the secretary of state, and the secretary of state shall furnish sample copies to the election administrators and on request to any individual.~~

~~(5)(4) Each sheet of a petition must contain signatures of electors residing in only one county."~~

Section 37. Section 13-10-504, MCA, is amended to read:

"13-10-504. Independent or minor party candidates for president or vice president. (1) An individual who desires to run for president or vice president as an independent candidate ~~or as a candidate of a party not qualified under 13-10-601~~ shall file a petition for nomination as provided in 13-10-501 with the secretary of state 76 days prior to the date of the general election.

(2) The petition and the affidavits of circulation required by 13-27-302 must first be submitted, at least

1 week before the deadline for filing, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306.

(3) The petition must have the signatures of electors equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election or 5,000 electors, whichever is less. The names of the candidates for the required number of presidential electors allowable to Montana must be certified to the secretary of state no later than 76 days before the general election.

(4) A qualified independent presidential candidate may amend the petition and designate or choose a named vice presidential candidate until the filing date provided in 13-25-101."

Section 38. Section 13-10-505, MCA, is amended to read:

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

Section 39. Section 13-12-201, MCA, is amended to read:

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

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

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

Section 40. Section 13-12-202, MCA, is amended to read:

"13-12-202. Ballot form and uniformity. (1) The secretary of state shall adopt statewide uniform rules that prescribe the ballot form for 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; and
- (g) the difference in appearance between a party preference designation and a party designation to prevent the possibility of voter confusion.

(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)."

Section 41. Section 13-12-203, MCA, is amended to read:

"13-12-203. Appearance of candidate's name and party designation on ballot. (1) (a) Subject to 13-12-202 ~~and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates,~~ in partisan elections, candidates' names must appear under the title of the office sought, with the name of the candidate's political party preference or, in partisan primaries, the candidate's party in not more than three words appearing opposite or below the name.

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

(2) Subject to 13-12-202, in nonpartisan general elections, the candidates' names must appear under the title of the office sought, with no description or designation appearing with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must appear

with the word "Nonpartisan".

Section 42. Section 13-12-205, MCA, is amended to read:

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

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

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

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

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

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

Section 43. Section 13-12-207, MCA, is amended to read:

"13-12-207. Order of placement. (1) The order on the ballot for state and federal offices must be as follows:

(a) If the election is in a year in which a president of the United States is to be elected, in spaces separated from the balance of the party tickets or ballot by a line must be the names and spaces for voting for candidates for president and vice president. The names of candidates for president and vice president for each

political party must be grouped together.

- (b) United States senator;
 - (c) United States representative;
 - (d) governor and lieutenant governor;
 - (e) secretary of state;
 - (f) attorney general;
 - (g) state auditor;
 - (h) state superintendent of public instruction;
 - (i) public service commissioners;
 - (j) clerk of the supreme court;
 - (k) chief justice of the supreme court;
 - (l) justices of the supreme court;
 - (m) district court judges;
 - (n) state senators;
 - (o) members of the Montana house of representatives.
- (2) The following order of placement must be observed for county offices:
- (a) clerk of the district court;
 - (b) county commissioner;
 - (c) county clerk and recorder;
 - (d) sheriff;
 - (e) coroner;
 - (f) county attorney;
 - (g) county superintendent of schools;
 - (h) county auditor;
 - (i) public administrator;
 - (j) county assessor;
 - (k) county treasurer;
 - (l) surveyor;
 - (m) justice of the peace.

(3) The secretary of state shall designate the order for placement on the ballot of any offices not on the above lists, except that the election administrator shall designate the order of placement for municipal, charter, or consolidated local government offices and district offices when the district is part of only one county.

(4) Constitutional amendments must be placed before statewide referendum and initiative measures. Ballot issues for a county, municipality, school district, or other political subdivision must follow statewide measures in the order designated by the election administrator.

(5) If any offices are not to be elected they may not be listed, but the order of the offices to be filled must be maintained.

(6) If there is a short-term and a long-term election for the same office, the long-term office must precede the short-term."

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

"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector. (1) (a) Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage prepaid, to each legally registered elector and provisionally registered elector from whom the election administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official ballots are necessary.

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

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

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

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

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

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

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

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

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

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

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

~~(5)(4)~~ Instructions for voting must be enclosed with the ballots. ~~Instructions for primary elections must include use of the envelope for unvoted ballots.~~ The instructions must include information concerning the type or types of writing instruments that may be used to mark the absentee ballot. The instructions must include information regarding use of the secrecy envelope and use of the return envelope. The election administrator shall include a voter information pamphlet with the instructions if:

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

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

"13-13-225. Special absentee election boards -- members -- appointment. (1) The election administrator shall designate and appoint a number of special absentee election boards as needed to serve in various places to deliver ballots to electors who are entitled to vote by absentee ballot as provided in 13-13-229.

(2) In a partisan election, each special absentee election board must consist of two members, one from each of the two political parties receiving the highest number of votes in the state during the last preceding presidential general election, if possible. Board members shall reside in the county in which they serve.

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

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

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

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

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

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

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

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

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

~~(4)(3)~~ If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector as provided in 13-13-245.

~~(5)(4)~~ If the signature on the absentee ballot return envelope does not match the signature on the absentee ballot request form or on the elector's voter registration card or if there is no signature on the absentee ballot return envelope, the election administrator shall notify the elector as provided in 13-13-245.

~~(6)(5)~~ If at any point there is a question concerning the validity of a particular ballot, the question must be resolved as provided in 13-13-245.

~~(7)(6)~~ After receiving an absentee ballot secrecy envelope and if the validity of the ballot is confirmed

pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official may, in the presence of a poll watcher, open the secrecy envelope and place the ballot in the proper, secured ballot box until tabulation occurs on election day.

~~(8)~~(7) The election administrator shall safely and securely keep the absentee ballots in the election administrator's office until delivered by the election administrator to the election judges.

~~(9)~~(8) The secretary of state shall develop administrative rules to establish the process and procedures to be used during the early preparation of ballots to ensure the security of the ballots and the secrecy of the votes during the early preparation period. The rules must include but are not limited to:

- (a) the allowable distance from the observers to the judges and ballots;
- (b) the security in the observation area;
- (c) secrecy of votes during the preparation of the ballots; and
- (d) security of the secured ballot boxes in storage until tabulation procedures begin on election day."

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

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

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

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

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

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

(4) Declarations must be filed:

(a) in the office of the secretary of state or the appropriate election administrator as provided in 13-10-201; and

(b) within the applicable filing period provided in ~~13-10-201(6)(a)~~ 13-10-201(7)(a) or ~~(6)(b)~~ (7)(b) for the office that the individual seeks."

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

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

(2) Petitions for nomination must be filed within the applicable filing period provided in ~~13-10-201(6)(a)~~ 13-10-201(7)(a) or ~~(6)(b)~~ (7)(b).

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

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

"13-14-114. Register of candidates. On receipt of a declaration or petition, the secretary of state or election administrator shall, if a register is kept, make an entry in the register of candidates ~~for nomination~~, on a page different from entries made for partisan candidates ~~of political parties~~."

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

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

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

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

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

(b) If the election administrator determines that a primary election need not be held pursuant to

subsection (2)(a), the administrator shall give notice to the governing body that a primary election will not be held.

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

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

"13-14-117. Placing names on ballots for general election. (1) Except as provided in 7-4-2106(3)(b), 7-4-2206(3)(b), 13-1-103(2), and subsection (2) of this section, candidates ~~for nomination~~ equal to twice the number to be elected at the general election who receive the highest number of votes cast at the primary ~~are the nominees for the office~~ election advance to the general election. If the number of candidates is not more than twice the number to be elected, then all candidates ~~are nominees for the office~~ advance to the general election.

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

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

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

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

- (a) the governor for national, state, judicial district, legislative, or any multicounty district office;
- (b) the governing body of the appropriate political subdivision for all other offices.

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

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

Section 54. Section 13-15-201, MCA, is amended to read:

"13-15-201. Preparation for count -- absentee ballot count procedures. (1) ~~Subject to 13-10-311,~~ ~~to~~ To prepare for a count of ballots, the counting board or, if appointed, the absentee counting board shall take ballots out of the box to determine whether each ballot is single.

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

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

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

(5) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority believes that the ballots folded together were voted by one elector, the ballots must be rejected and handled as provided in 13-15-108, otherwise they must be counted.

(6) Only valid absentee ballots may be counted in an election conducted under this chapter.

(7) For the purpose of this chapter, a voted absentee ballot is valid only if:

(a) the elector's signature on the affirmation on the return envelope is verified pursuant to 13-13-241;

and

(b) it is received before 8 p.m. on election day, except as provided in 13-21-206 and 13-21-207.

(8) (a) A ballot is invalid if:

(i) problems with the ballot have not been resolved pursuant to 13-13-245;

(ii) any identifying marks are placed on the ballot by the elector; or

(iii) except as provided in subsection (8)(b), more than one ballot is enclosed in a single return or secrecy envelope.

(b) The provisions of subsection (8)(a)(iii) do not apply if:

(i) there are multiple elections being held at the same time and the envelope contains only one ballot for each election; or

(ii) the return envelope contains ballots from the same household, each ballot is in its own secrecy

envelope, and the return envelope contains a valid signature for each elector who has returned a ballot."

Section 55. Section 13-15-205, MCA, is amended to read:

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

- (a) the precinct register;
- (b) the list of individuals challenged;
- (c) the pollbook;
- (d) both of the tally sheets.

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

(3) The election judges shall enclose in a separate container, securely sealed, all ballots voted, including those not counted or allowed, and detached stubs from all counted or rejected absentee ballots. This envelope must be endorsed on the outside "ballots voted". ~~At the primary election the unvoted party ballots must be enclosed in a separate container, securely sealed, and marked on the outside "unvoted ballots".~~

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

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

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

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

Section 56. Section 13-15-206, MCA, is amended to read:

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

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

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

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

(ii) If the two tallies match, the judges shall record in the pollbook:

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

(B) the offices for which individuals received votes;

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

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

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

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

(i) if a vote is recognized and counted by the system, it is a valid vote;

(ii) if a vote is not recognized and counted by the system, it is not a valid vote;

(iii) write-in votes must be counted in accordance with rules adopted pursuant to subsection (7).

(b) If the voting system cannot process the ballot because of the ballot's condition or if the voting system registers an unvoted ballot or an overvote, which must be considered a questionable vote, the entire ballot must be set aside and the votes on the ballot must be counted as provided in subsection (4).

(c) If an election administrator or counting board has reason to believe that a voting system is not functioning correctly, the election administrator shall follow the procedures prescribed in 13-15-209.

(d) After all valid votes have been counted and totaled, the judges shall record in the pollbook the information specified in subsection (2)(b)(ii).

(4) (a) (i) Before being counted, each questionable vote on a ballot set aside under subsection (2)(a) or (3)(b) must be reviewed by the counting board. The counting board shall evaluate each questionable vote according to rules adopted by the secretary of state.

(ii) If a majority of the counting board members agree that under the rules the voter's intent can be clearly

determined, the vote is valid and must be counted according to the voter's intent.

(iii) If a majority of the counting board members do not agree that the voter's intent can be clearly determined under the rules, the vote is not valid and may not be counted.

(b) If a ballot was set aside under subsection (3)(b) because it could not be processed by the voting system due to the ballot's condition, the counting board shall transfer all valid votes to a new ballot that can be processed by the voting system.

(5) A write-in vote may be counted if:

(a) (i) the write-in vote identifies an individual by a designation filed pursuant to 13-10-211(1)(a); or

(ii) pursuant to 13-10-211(8), a declaration of ~~nomination~~ candidacy was not filed and the write-in vote identifies an individual who is qualified for the office; and

(b) the oval, box, or other designated voting area on the ballot is marked.

(6) A vote is not valid and may not be counted if the elector's choice cannot be determined as provided in this section.

(7) The secretary of state shall adopt rules defining a valid vote and a valid write-in vote for each type of ballot and for each type of voting system used in the state. The rules must provide a sufficient guarantee that all votes are treated equally among jurisdictions using similar ballot types and voting systems.

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

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

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

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

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

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

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

Section 57. Section 13-15-208, MCA, is amended to read:

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

Section 58. Section 13-15-405, MCA, is amended to read:

"13-15-405. Declaration or certification of results. (1) The board shall declare ~~nominated~~ as selected to advance or as elected the individuals having the highest number of votes cast for each county and precinct office, except as provided in 13-1-103(2) and 13-10-204.

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

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

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

(5) The board shall certify the results of the canvass of votes cast for justice of the peace, city judge, and municipal court judge to the supreme court in order to ensure compliance with 3-1-1502 or 3-1-1503."

Section 59. Section 13-15-406, MCA, is amended to read:

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

Section 60. Section 13-15-507, MCA, is amended to read:

"13-15-507. Declaration, proclamation, and certification of results. The board shall declare ~~nominated-or-elected~~ the individual having the highest number of votes cast for each office as selected to advance or as elected, except as provided in 13-10-204. The board shall proclaim the adoption or rejection of ballot issues. Certified copies of the report required in 13-15-506, the declaration of ~~nominated-or-elected~~

individuals selected to advance or elected, the proclamation of adoption or rejection of ballot issues, and the effective date of adopted ballot issues ~~shall~~ must be delivered to the governor."

Section 61. Section 13-16-101, MCA, is amended to read:

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

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

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

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

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

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

Section 62. Section 13-16-201, MCA, is amended to read:

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

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

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

and a recount must be conducted in those precincts.

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

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

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

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

(2) If the election is a school election, the petition is filed with the filing officer with whom the declarations for nomination of candidacy for school district office were filed or with whom the school ballot issue was filed.

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

Section 63. Section 13-16-211, MCA, is amended to read:

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

(2) The unsuccessful candidate shall post a bond with the clerk and recorder of the county in which the candidate resides. The bond must be in an amount set by the clerk and recorder sufficient to cover all costs of the recount incurred by each county in which a recount is sought, including loss of time of regular employees

caused by absence from their regular duties.

(3) Upon the filing of a petition and posting of a bond under this section, the board of county canvassers in each county affected shall meet and recount the ballots specified in the petition."

Section 64. Section 13-16-412, MCA, is amended to read:

"13-16-412. Procedure for recounting paper ballots. To conduct a recount of paper ballots:

(1) the election administrator shall provide to the recount board, unopened, each sealed package or envelope received from the election judges of the precinct or precincts in which a recount is ordered, containing all the paper ballots voted in the precinct or precincts;

(2) a member of the recount board shall open each sealed package or envelope and remove the ballots, and the board shall count the votes on each ballot manually in the manner provided in 13-15-206(2), ~~except that if the office to be recounted is on a partisan primary election ballot, votes are recounted only on the party ballots that are subject to the recount;~~ and

(3) the recount must be tallied on previously prepared tally sheets. The tally sheets must show the names of the respective candidates, the office or offices for which a recount is made, and the number of each election precinct."

Section 65. Section 13-16-418, MCA, is amended to read:

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

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

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

- (a) each precinct recounted;
- (b) the vote of each precinct according to the official canvass previously made;
- (c) the ~~nomination, position,~~ office or question involved; and
- (d) the correct vote of each precinct as determined by the recount.

(4) When the certificate relates to a recount for a congressional office, a state or district office voted on

in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county, the certificate must be made in duplicate. One copy must be transmitted immediately to the secretary of state by certified mail.

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

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

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

Section 66. Section 13-16-419, MCA, is amended to read:

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

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

(3) (a) If the corrected abstract shows no change in the results, further action may not be taken.

(b) If there is a change in the results, the first certificate is void and a new certificate of selection or election ~~or nomination~~ must be issued in the same manner as the certificate of ~~election or nomination~~ was previously issued ~~to each candidate elected or nominated.~~"

Section 67. Section 13-16-501, MCA, is amended to read:

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

must be given to each candidate involved.

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

Section 68. Section 13-17-103, MCA, is amended to read:

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

- (a) allows an elector to vote in secrecy;
- (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;
- (d) allows an elector to vote only for the candidates of the party selected by the elector in ~~the~~ a partisan primary election;
- (e) allows an elector to vote a split ticket in a general election if the elector desires;
- (f) allows each valid vote cast to be registered and recorded within the performance standards adopted pursuant to subsection (2);
- (g) is protected from tampering for a fraudulent purpose;
- (h) prevents an individual from seeing or knowing the number of votes registered for any candidate or on any ballot issue during the progress of voting;
- (i) allows write-in voting;
- (j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;
- (k) uses a paper ballot that allows votes to be manually counted; and
- (l) allows auditors to access and monitor any software program while it is running on the system to determine whether the software is running properly.

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

Section 69. Section 13-19-205, MCA, is amended to read:

"13-19-205. Written plan for conduct of election -- amendments -- approval procedures. (1) The election administrator shall prepare a written plan for the conduct of the election and shall submit it to the secretary of state in a manner that ensures that it is received at least 60 days prior to the date set for the election.

(2) The written plan must include:

(a) a timetable for the election; and

(b) sample written instructions that will be sent to the electors. The instructions must include but are not limited to:

(i) information on the estimated amount of postage required to return the ballot;

(ii) (A) the location of the places of deposit and the days and times when ballots may be returned to the places of deposit, if the information is available; or

(B) if the information on location and hours of places of deposit is not available, a section that will allow the information to be added before the instructions are mailed to electors; and

(iii) any applicable instructions specified under 13-13-214~~(5)~~(4).

(3) The plan may be amended by the election administrator any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes.

(4) Within 5 days of receiving the plan and as soon as possible after receiving any amendments, the secretary of state shall approve, disapprove, or recommend changes to the plan or amendments.

(5) When the written plan has been approved, the election administrator shall proceed to conduct the election according to the approved plan unless the election is canceled for any reason provided by law."

Section 70. Section 13-21-205, MCA, is amended to read:

"13-21-205. Federal write-in absentee ballot. (1) A United States elector may register, if not already registered, and vote in any election by completing, signing, and returning a federal write-in absentee ballot and meeting the requirements in 13-21-206.

(2) (a) A United States elector voting a federal write-in absentee ballot for a federal general election may designate a candidate by writing in the name of the candidate or, for a presidential preference primary or presidential general election, by writing in the name of the political party for which the elector is voting. A written designation of the political party must be counted as a vote for the candidate of that party in a presidential race.

(b) (i) Except as provided in subsection (2)(b)(ii), a United States elector may vote in any election for a public office other than for a federal office by using the addendum provided in the federal write-in absentee ballot and writing in the title of the office and the name of the candidate for whom the elector is voting.

(ii) If the elector is voting in a partisan primary election, the elector shall identify the elector's political party affiliation as provided for in the appropriate section of the ballot. A vote cast by writing in the name of a candidate who is not affiliated with the elector's identified party is void and may not be counted.

(3) A vote may not be voided for reasons of misspellings, abbreviations, or other minor variations of the candidate's name.

(4) If the elector receives the regular absentee ballot after the elector has voted and mailed a federal write-in absentee ballot, the elector may vote and return the regular absentee ballot."

Section 71. Section 13-25-101, MCA, is amended to read:

"13-25-101. Nomination of electors -- ballot. (1) In the manner and number provided by ~~law~~ the rules of the political party pursuant to 13-10-407, each political party ~~qualified under 13-10-604~~ with a presidential candidate on the ballot shall nominate presidential electors for this state and file with the secretary of state certificates of nomination in a form and by the date prescribed by the secretary of state.

(2) In the event of the death of a candidate for president or vice president after a certificate of nomination has been filed, a new candidate for president or vice president, or both, may be nominated for the affected political party and a new certificate of nomination may be filed with the secretary of state by the date prescribed by the secretary of state.

(3) A candidate for election to the office of president or vice president may withdraw from the election by sending a statement of withdrawal to the secretary of state. The statement of withdrawal:

(a) must contain all information necessary to identify the candidate and the office sought; and

(b) unless filed electronically, must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) A candidate may not withdraw later than the deadline prescribed by the secretary of state for nomination of presidential electors.

(5) The secretary of state shall certify to the election administrator the names of the candidates for president and vice president of the several political parties, which must be placed on the ballot by one of the

methods provided in 13-12-204.

(6) If the name of a new candidate for president or vice president, or both, is certified to the secretary of state in less than 76 days pursuant to subsection (1), the secretary of state shall immediately certify the new name or names to the election administrators and the new name or names must be placed on the ballot by one of the methods provided in 13-12-204.

(7) The names of candidates for electors of president and vice president may not appear on the ballot."

Section 72. Section 13-25-201, MCA, is amended to read:

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

(2) ~~Nominations and elections shall~~ Elections must be as provided by law for governor."

Section 73. Section 13-25-205, MCA, is amended to read:

"**13-25-205. Nominations for special Special election for United States representative.** (1) When a special election is ordered to fill a vacancy in the office of United States representative, ~~each political party shall choose a candidate according to the rules of the party~~ a special primary election to narrow the number of candidates to the top two must be conducted prior to the special election. Nominations by parties must be made no later than 85 days before the date set for the election.

(2) ~~Nominating petitions~~ Declarations of candidacy may be filed by ~~independent candidates~~ for the office up to 5 p.m. of the 85th day before the special primary election."

Section 74. Section 13-25-303, MCA, is amended to read:

"**13-25-303. Designation of electors.** Pursuant to 13-25-101, each political party ~~qualified under 13-10-604~~ or unaffiliated presidential candidate shall submit to the secretary of state the names of two qualified individuals for each elector position in this state. One of the individuals must be designated as the elector nominee and the other must be designated as the alternate elector nominee. Unless otherwise provided by 13-25-305 through 13-25-308, Montana's electors are the winning electors under the laws of this state."

Section 75. Section 13-35-106, MCA, is amended to read:

"13-35-106. Ineligibility to hold office because of conviction. In addition to all other penalties prescribed by law:

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

Section 76. Section 13-35-205, MCA, is amended to read:

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

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

Section 77. Section 13-35-206, MCA, is amended to read:

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

- (1) prior to or on election day, knowingly defaces or destroys any list of candidates posted in accordance with the provisions of the law;

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

Section 78. Section 13-35-207, MCA, is amended to read:

"13-35-207. Deceptive election practices. A person is guilty of false swearing, unsworn falsification, or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-7-203, or 45-7-208, as applicable, whenever the person:

- (1) falsely represents the person's name or other information required upon the person's registry card and causes registration with the card;
- (2) signs a registry card knowingly witnessing any false or misleading statement;
- (3) knowingly causes a false statement, certificate, or return of any kind to be signed;
- (4) falsely makes a declaration of candidacy or certificate of ~~nomination~~ selection;
- (5) files or receives for filing a declaration of candidacy or certificate of ~~nomination~~ selection knowing that all or part of the declaration or certificate is false;
- (6) forges or falsely makes the official endorsement of a ballot;
- (7) forges or counterfeits returns of an election purporting to have been held at a precinct, municipality, or ward where no election was in fact held;

(8) knowingly substitutes forged or counterfeit returns of election in place of the true returns for a precinct, municipality, or ward where an election was held;

(9) signs a name other than the person's own to a petition, signs more than once for the same ballot issue, or signs a petition while not being a qualified elector of the state; or

(10) makes a false oath or affidavit where an oath or affidavit is required by law."

Section 79. Section 13-35-214, MCA, is amended to read:

"13-35-214. Illegal influence of voters. A person may not, directly or indirectly, individually or through any other person, for any election, in order to induce any elector to vote or refrain from voting or to vote for or against any particular candidate, political party ~~ticket~~, or ballot issue:

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

(2) promise to appoint another person or promise to secure or aid in securing the appointment; ~~nomination~~, or election of another person to a public or private position or employment or to a position of honor, trust, or emolument in order to aid or promote the candidate's ~~nomination or~~ election, except that the candidate may publicly announce or define the candidate's choice or purpose in relation to an election in which the candidate may be called to take part if elected."

Section 80. Section 13-35-218, MCA, is amended to read:

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

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

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

(2) A person who is a minister, preacher, priest, or other church officer or who is an officer of any corporation or organization, religious or otherwise, may not, other than by public speech or print, urge, persuade,

or command any voter to vote or refrain from voting for or against any candidate, any candidates of or associating with a particular political party ticket, or ballot issue submitted to the people because of the person's religious duty or the interest of any corporation, church, or other organization.

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

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

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

Section 81. Section 13-35-221, MCA, is amended to read:

"13-35-221. Improper ~~nominations~~ candidacy. (1) A person may not pay or promise valuable consideration to another, in any manner or form, for the purpose of inducing the other person to be or to refrain from or to cease being a candidate, and a person may not solicit or receive any payment or promise from another for that purpose.

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

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

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

(c) withdraw if the person has been nominated.

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

(a) the person ~~has sought the nomination or~~ seeks to have the person's name presented to the voters

as a candidate for ~~nomination by any political party~~ selection to advance to the general election for any mercenary or venal consideration or motive; and

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

Section 82. Section 13-35-225, MCA, is amended to read:

"13-35-225. Election materials not to be anonymous -- statement of accuracy. (1) All communications advocating the success or defeat of a candidate, political party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person who made or financed the expenditure for the communication. When a candidate or a candidate's campaign finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's campaign. In the case of a political committee, the attribution must be the name of the committee, the name of the committee treasurer, and the address of the committee or the committee treasurer.

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

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

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

(i) a reference to the particular vote or votes upon which the information is based;

(ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if closely related in time; and

(iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the statements made about the other candidate's voting record are accurate and true.

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

(i) by the candidate if the election material was prepared for the candidate or the candidate's political

committee and includes information about another candidate's voting record; or

(ii) by the person financing the communication or the person's legal agent if the election material was not prepared for a candidate or a candidate's political committee.

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

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

(a) file notification of the omission with the commissioner of political practices within 5 days of the discovery or notification;

(b) bring the material into compliance with subsections (1) through (3); and

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

Section 83. Section 13-35-226, MCA, is amended to read:

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

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

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

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

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

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

(b) other threats or promises, express or implied, intended or calculated to influence the political opinions

or actions of the employer's workers or employees.

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

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

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

Section 84. Section 13-36-101, MCA, is amended to read:

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

- (1) a deliberate, serious, and material violation of any provision of the law relating to ~~nominations or~~ elections or selections to advance has occurred;
- (2) the person was not, at the time of the election, eligible to be a candidate for the office;
- (3) votes were cast illegally or were counted or canvassed in an erroneous or fraudulent manner."

Section 85. Section 13-36-102, MCA, is amended to read:

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

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

day of election at which the offense was committed."

Section 86. Section 13-36-103, MCA, is amended to read:

"13-36-103. Court having jurisdiction of proceedings. An application for filing a statement, payment of a claim, or correction of an error or false recital in a filed statement or an action or proceeding to annul and set aside the election of any person declared elected to an office or to remove or deprive any person of the person's office for an offense mentioned in this title or any petition to excuse any person or candidate in accordance with the power of the court to excuse, as provided in 13-36-209, must be made or filed in the district court of the county in which the certificate, declaration, or acceptance of the person's ~~nomination as a candidate~~ selection to advance for the office ~~to which the person is declared nominated or elected~~ is filed or in which the incumbent resides."

Section 87. Section 13-36-104, MCA, is amended to read:

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

Section 88. Section 13-36-201, MCA, is amended to read:

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

Section 89. Section 13-36-202, MCA, is amended to read:

"13-36-202. Reception of illegal votes -- allegations and evidence. When the reception of illegal votes is alleged as a cause of contest, it is sufficient to state generally that in one or more specified voting precincts

illegal votes were given to the candidate whose ~~nomination~~ selection to advance or election is contested that, if taken from the candidate, will reduce the number of the candidate's legal votes below the number of legal votes given to some other candidate for the same office. Testimony may not be received of any illegal votes unless the party contesting the election delivers to the opposite party, at least 3 days before trial, a written list of the number of illegal votes and by whom given that the party intends to prove at trial. This provision may not prevent the contestant from offering evidence of illegal votes not included in the statement if the contestant did not know and by reasonable diligence was unable to learn of the additional illegal votes and by whom they were given before delivering the written list."

Section 90. Section 13-36-203, MCA, is amended to read:

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

In the District Court of the

.... Judicial District,

for the County of, State of Montana.

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

vs.

E F, Contestee.

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

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

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

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

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

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

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

Section 91. Section 13-36-206, MCA, is amended to read:

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

Section 92. Section 13-36-207, MCA, is amended to read:

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

Section 93. Section 13-36-209, MCA, is amended to read:

"13-36-209. Forfeiture of ~~nomination~~ election or office for violation of law -- when inappropriate.

Upon the trial of any action or proceeding under the provisions of this title to contest the right of any person to be declared ~~nominated~~ selected to advance or elected to any office or to annul or set aside ~~a nomination or a primary or general~~ election result or to remove a person from office, the ~~nomination or~~ selection to advance or election of the candidate is not void by reason of the offense or omission complained of ~~void~~ and the candidate may not be removed from or deprived of office if under the circumstances it seems to the court to be unjust that the candidate forfeit ~~a nomination~~ the selection to advance or office or be deprived of any office of which the candidate is the incumbent. The decision of the court must be based upon the following:

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

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

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

Section 94. Section 13-36-210, MCA, is amended to read:

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

Section 95. Section 13-36-211, MCA, is amended to read:

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

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

(2) that the number of illegal votes given to the ~~person whose right to the nomination or office~~ candidate whose right is contested, if taken from the person, would reduce the number of legal votes for the ~~person~~ candidate below the number of votes given to some other person for the same ~~nomination~~ selection to advance or office, after deducting the illegal votes that may be shown to have been given to the other person."

Section 96. Section 13-36-212, MCA, is amended to read:

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

Section 97. Section 13-37-127, MCA, is amended to read:

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

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

Section 98. Section 13-37-216, MCA, is amended to read:

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

- (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed \$500;
 - (ii) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$250;
 - (iii) for a candidate for any other public office, not to exceed \$130.
- (b) A contribution to a candidate includes contributions made to the candidate's committee and to any political committee organized on the candidate's behalf.

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

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

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

- (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed \$18,000;
- (b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed \$6,500;
- (c) for a candidate for public service commissioner, not to exceed \$2,600;
- (d) for a candidate for the state senate, not to exceed \$1,050;
- (e) for a candidate for any other public office, not to exceed \$650.

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

year in which a general election is held by the consumer price index for June 2002.

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

- (i) \$10 increment for the limits established in subsection (1); and
- (ii) \$50 increment for the limits established in subsection (3).

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

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

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

Section 99. Section 13-37-218, MCA, is amended to read:

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

Section 100. Section 13-38-101, MCA, is amended to read:

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

- (1) make its own rules;
- (2) provide for and select its own offices;

- (3) call conventions and provide for the number and qualification of delegates;
- (4) adopt platforms;
- (5) provide for selection of delegates to national conventions;
- (6) provide for the nomination of presidential electors;
- (7) provide for the selection of national committee representatives;
- (8) make nominations to fill vacancies occurring among its candidates ~~nominated in a general election~~ who chose to state their party preference or association on their most recent declaration of candidacy for offices to be filled by the state at large or by any district consisting of more than one county where the vacancies are caused by death, resignation, or removal from the electoral district;
- (9) perform all other functions inherent in a party organization."

Section 101. Section 13-38-201, MCA, is amended to read:

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

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

(3) Except as provided in subsection (4), the names of candidates for precinct committee representative of each political party must appear in a separate section on the party ticket primary election ballot but in the same manner as other candidates and are voted for in the same manner as other candidates.

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

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

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

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

Section 102. Repealer. The following sections of the Montana Code Annotated are repealed:

- 13-10-302. Write-in votes for previously nominated candidates.
- 13-10-303. Nominations by more than one party.
- 13-10-305. Independent forfeits place on ballot.
- 13-10-311. Election judges' duties when preparing for count.
- 13-10-502. Signature requirements for petition.
- 13-10-503. Filing deadlines.
- 13-10-507. Independent candidates -- association with political parties not allowed.
- 13-10-601. Parties eligible for primary election -- petitions by minor parties.
- 13-10-602. Use of party name.
- 13-10-604. Nominations for minor parties.
- 13-38-204. Committees to fill vacancies among nominees under certain circumstances.

Section 103. Codification instruction. [Section 31] is intended to be codified as an integral part of Title 13, chapter 10, part 1, and the provisions of Title 13, chapter 10, part 1, apply to [section 31].

Section 104. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 105. Coordination instruction. If House Bill No. 120 is passed and approved and if [this act] is passed by the legislature and approved by the electorate and both contain a section amending 5-2-402, then section 5-2-402 must be amended as follows:

"5-2-402. Appointment by board of county commissioners -- county central committee role -- timeframes. (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in the event of a multicounty district, the boards of county commissioners of the counties comprising the district sitting as one appointing board.

(2) (a) Whenever a vacancy is within a single county, the board of county commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

(b) Whenever a vacancy is within a multicounty district, the boards of county commissioners shall sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

(i) The presiding officer of the board of county commissioners of the county in which the person resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the legislature and shall preside at the meeting.

(ii) Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided by B) multiplied by (1 divided by C), where:

(A) A is the total votes cast in the respective county for the person vacating the legislative seat or, if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

(B) B is the total votes cast for that person in the legislative district; and

(C) C is the number of authorized commissioners on the board of the commissioner whose vote is being determined.

(iii) The person selected to fill the vacancy is the one who receives the highest number above 50 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

(c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the number of votes cast by electors residing in the new senate district for senate candidates of the party to which the person vacating the seat belonged may be counted. The secretary of state shall provide an estimate of the number of

votes cast for each party by county or portion of a county. The selection process is the same as provided in subsection (2)(b)(iii).

(3) The appointment process to fill a vacant legislative seat under this section is as follows:

(a) Within 7 days of being notified of a vacancy as described in 2-16-501, the secretary of state shall notify the board of county commissioners, and if the vacating legislator marked a party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, the secretary of state shall notify the relevant state party that is responsible for notifying the county central committee of the county where the vacating legislator is a resident, if the legislative seat is within one county, or the boards of county commissioners and the corresponding county central committees if the legislative seat is in a multicounty district. If the legislator is an independent or did not mark a party preference, marked "independent", or marked a party preference for a party that does not have a county central committee as the party preference on the legislator's most recent declaration of candidacy filed with the secretary of state or election administrator, independent or belongs to a party for which there is no county central committee, the notification of county commissioners suffices.

(b) The county central committee or committees, upon receipt of notification of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county central committee or the county central committees, acting together, shall forward the list of names to the appointing board within the 45-day period.

(c) The appointing board shall make and confirm an appointment and notify the secretary of state within 15 days:

- (i) after receiving the list of prospective appointees from the county central committee or committees;
- (ii) after 45 days have expired after the notification of vacancy if the county central committee or committees have not provided a list of prospective appointees; or
- (iii) after notification of a vacancy if the legislator vacating the seat is an independent.

(4) If the legislature is in session, the notification process in subsection (3)(a) must be followed within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in subsection (3)(c) must take place in 5 days.

(5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

(6) If the legislature is called into special session within 85 days of a general election, a person must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

Section 106. Coordination instruction. If [this act] is passed by the legislature and approved by the electorate and if House Bill No. 120 is passed and approved:

- (1) the reference to "declaration for nomination" in 13-10-201 must be changed to "declaration of candidacy"; and
- (2) the reference to "declaration for nomination" in 13-14-113 must be changed to "declaration of candidacy".

Section 107. Coordination instruction. If [this act] is passed by the legislature and approved by the electorate and if Senate Bill No. 375 is passed and approved, then the section that amends 13-37-216 in [this act] is void and the reference to "gubernatorial" in the definition of "political party organization" in section 13-1-101 in Senate Bill No. 375 must be changed to "presidential".

Section 108. Effective date. [This act] is effective upon approval by the electorate.

Section 109. Applicability. [This act] applies to elections held on by after January 1, 2015.

Section 110. Submission to electorate. [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2014 by printing on the ballot the full title of [this act] and the following:

- YES on Legislative Referendum No. ____
- NO on Legislative Referendum No. ____

- END -

I hereby certify that the within bill,
SB 0408, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2013.

Speaker of the House

Signed this _____ day
of _____, 2013.

SENATE BILL NO. 408

INTRODUCED BY OLSON, SONJU, TUTVEDT

AN ACT GENERALLY REVISING ELECTION LAWS; PROVIDING THAT THE TWO CANDIDATES WHO RECEIVE THE MOST VOTES IN CERTAIN PRIMARY ELECTIONS FOR PARTISAN OFFICES ADVANCE TO THE GENERAL ELECTION IRRESPECTIVE OF PARTY AFFILIATION; ELIMINATING SEPARATE PARTY BALLOTS AND PROVIDING FOR ONE PRIMARY BALLOT CONTAINING ALL PRIMARY RACES; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 2-16-615, 5-2-402, 5-2-403, 5-2-404, 5-2-406, 7-2-2219, 7-3-176, 7-3-218, 7-3-313, 7-3-412, 7-3-512, 7-3-704, 7-3-1256, 7-4-2106, 7-4-2206, 7-4-2302, 7-4-2310, 7-4-4112, 13-1-101, 13-1-103, 13-4-102, 13-10-201, 13-10-203, 13-10-204, 13-10-209, 13-10-211, 13-10-301, 13-10-325, 13-10-326, 13-10-327, 13-10-402, 13-10-403, 13-10-404, 13-10-405, 13-10-501, 13-10-504, 13-10-505, 13-12-201, 13-12-202, 13-12-203, 13-12-205, 13-12-207, 13-13-214, 13-13-225, 13-13-241, 13-14-111, 13-14-112, 13-14-113, 13-14-114, 13-14-115, 13-14-117, 13-14-118, 13-15-201, 13-15-205, 13-15-206, 13-15-208, 13-15-405, 13-15-406, 13-15-507, 13-16-101, 13-16-201, 13-16-211, 13-16-412, 13-16-418, 13-16-419, 13-16-501, 13-17-103, 13-19-205, 13-21-205, 13-25-101, 13-25-201, 13-25-205, 13-25-303, 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, 13-37-218, 13-38-101, AND 13-38-201, MCA; REPEALING SECTIONS 13-10-302, 13-10-303, 13-10-305, 13-10-311, 13-10-502, 13-10-503, 13-10-507, 13-10-601, 13-10-602, 13-10-604, AND 13-38-204, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.