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\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

**REVISED FOR DISCUSSION AND ACTION**

**AT APRIL 25, 2002, MEETING**

A Bill for an Act entitled: "An Act generally revising provisions related to voting system technology and ballot form; providing uniform procedures for determining a valid vote and conducting vote counts and recounts; providing rulemaking authority; requiring election administrators to report certain data on voting system performance; amending provisions on training for election administrators and election judges; clarifying the application of certain election laws to school elections; amending sections 13-1-101, 13-1-103, 13-1-202, 13-1-203, 13-4-101, 13-4-102, 13-4-203, 13-10-204, 13-10-208, 13-10-209, 13-10-301, 13-10-303, 13-10-311, 13-12-201, 13-12-202, 13-12-203, 13-12-204, 13-12-205, 13-12-212, 13-13-111, 13-13-112, 13-13-115, 13-13-116, 13-13-117, 13-13-201, 13-13-203, 13-13-205, 13-13-211, 13-13-212, 13-13-214, 13-13-222, 13-13-229, 13-13-231, 13-13-232, 13-13-233, 13-13-234, 13-13-241, 13-13-244, 13-14-115, 13-14-116, 13-14-117, 13-14-118, 13-14-212, 13-15-101, 13-15-103, 13-15-104, 13-15-105, 13-15-201, 13-16-201, 13-16-411, 13-16-412, 13-16-414, 13-16-417, 13-16-420, 13-17-101, 13-17-102, 13-17-103, 13-17-104, 13-17-105, 13-17-106, 13-17-107, 13-17-201, 13-17-203, 13-17-204, 13-17-206, 13-17-305, 13-17-306, 13-19-106, 13-19-309, 13-19-312, 13-19-314, 13-25-101, 13-27-501, 13-27-502, 13-35-202, 13-35-205, 13-35-206, 13-37-126, 13-37-250, 13-38-

1 201, 20-20-421, and 76-15-303, MCA; and repealing sections 13-4-103,  
2 13-4-104, 13-4-107, 13-4-202, 13-12-208, 13-12-209, 13-13-221, 13-15-  
3 202, 13-16-303, 13-16-413, and 13-17-301, MCA."

4  
5 Be it enacted by the Legislature of the State of Montana:

6  
7 NEW SECTION. **Section 1. Appointment of counting boards.** To  
8 count votes in any election under this title, when election judges  
9 are appointed under 13-4-101, each county's governing body shall  
10 designate 3 of the election judges to act as a counting board. The  
11 governing body may also designate 3 of the election judges to act as  
12 an absentee ballot counting board under 13-15-104.

13  
14 NEW SECTION. **Section 2. Determining valid votes -- uniformity**  
15 **-- rulemaking -- definitions.** (1) When conducting vote counts as  
16 provided by law, a counting board, absentee ballot counting board, or  
17 recount board shall count and determine the validity of each vote in  
18 a uniform manner as provided in this section.

19 (2) A manual count of votes cast on a paper ballot must be  
20 conducted as follows:

21 (a) One election judge on the board shall read the ballot  
22 while the two other judges on the board shall each record on an  
23 official tally sheet the number of valid votes cast for each  
24 individual or ballot issue. If a vote has not been cast according to  
25 proper instructions, the entire ballot must be set aside and counted  
26 as provided in subsection (4).

27 (b)(i) After the vote count under subsection (2)(a) and  
28 subsection (4) are complete, the tally sheets of the two judges

1 recording the votes must be compared.

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

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

5 (B) the offices for which they received votes;

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

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

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

12 (3)(a) Except as provided in subsection (3)(b), if a vote on a  
13 paper ballot or nonpaper ballot is recognized and counted by the  
14 system, it is a valid vote.

15 (b)(i) If a paper ballot being counted by a voting system is  
16 rejected by the system or if the system records an "overvote" or  
17 "undervote" on a ballot, as the terms are defined in subsection (8),  
18 the ballot must be set aside and counted as provided in subsection  
19 (4).

20 (b)(ii) If an election administrator determines that a voting  
21 system is not functioning correctly, the election administrator shall  
22 follow the procedures prescribed in 13-16-414.

23 (c) After all valid votes have been counted and totaled  
24 pursuant to this subsection (3) and subsection (4), the judges shall  
25 record in the pollbook the information specified in subsection  
26 (2)(b)(ii).

27 (4) (a) Each questionable vote on a paper ballot set aside  
28 under subsections (2)(a) or (3)(b) must be counted if the voter's

1 intent can be clearly determined and agreed upon by all election  
2 judges on the counting board under statewide uniform rules adopted  
3 pursuant to subsection (6).

4 (b) After the questionable votes on each ballot set aside  
5 under subsections (2)(a) or (3)(b) have been determined as a valid  
6 vote, an invalid vote, or an intentional nonvote, the valid votes  
7 must be counted manually or automatically tabulated by the voting  
8 system. If the ballot is to be counted manually, the votes must be  
9 tallied as provided in subsection (2). If the ballot is to be counted  
10 using a voting system, the valid votes must be transferred to a  
11 ballot so that the ballot and the votes will be accepted by the  
12 voting system and tabulated as provided in subsection (3).

13 (c) Votes counted pursuant to this subsection (4) and the  
14 votes initially counted under subsections (2) and (3) must be  
15 totaled.

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

18 (6) The secretary of state shall adopt rules defining what is  
19 a valid vote for each type of ballot and voting system used in the  
20 state. The rules must provide a sufficient guarantee that all votes  
21 are treated equally among jurisdictions using similar ballots types  
22 and voting systems.

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

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

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

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

3 (d) objections to determinations on the validity of an  
4 individual vote or entire count; and

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

7 (8) For purposes of this section:

8 (a) "overvote" means an elector's vote that has been  
9 interpreted by the voting system as two votes; and

10 (b) "undervote" means an elector's vote that has been  
11 interpreted by the voting system as a nonvote.

12  
13 **NEW SECTION. Section 3. Uniform procedures for using voting**  
14 **systems.** (1) For each voting system approved under 13-17-101, the  
15 secretary of state shall adopt rules specifying the procedures to be  
16 uniformly applied in elections conducted with the voting system.

17 (2) The rules must, at a minimum, specify procedures that  
18 address the following:

19 (a) performance certification under [section 4];

20 (b) how electors provide for the proper disposition of a  
21 nonpaper ballot pursuant to 13-13-117(2)(b);

22 (c) the process to be used to prepare for a vote count under  
23 13-15-201(2) for nonpaper ballots so that election judges can  
24 determine the total number of electors voting in the election  
25 compared to the total number of ballots cast;

26 (d) the procedures to be followed if the comparison under  
27 subsection (2)(b) reveals discrepancies;

28 (e) recount procedures under 13-16-412(2);

1 (f) voting system tests to correct discrepancies under 13-16-  
2 414(1)(a);

3 (g) what contingencies must be made for recounts pursuant to  
4 13-16-414(3)(b); and

5 (h) the security measures necessary to secure the voting  
6 system before, during, and after an election, including security  
7 following a recount under 13-16-417.

8  
9 NEW SECTION. **Section 4. Performance certification of voting**  
10 **systems prior to election.** No more than 30 days prior to an election  
11 in which a voting system is used, the election administrator must  
12 test and certify that the system is performing properly. The test  
13 and certification must be conducted according to rules adopted by the  
14 secretary of state pursuant to [section 3].

15  
16 **Section 5.** Section 13-1-101, MCA, is amended to read:

17 **"13-1-101. Definitions.** As used in this title, unless the  
18 context clearly indicates otherwise, the following definitions apply:

19 (1) "Active elector" means a qualified elector whose name is  
20 on the active list.

21 (2) "Active list" means a list of active electors maintained  
22 by an election administrator pursuant to 13-2-219.

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

26 (4) "Application for voter registration" means a completed  
27 voter registration card submitted to the election administrator and  
28 subject to confirmation, as provided in 13-2-207.

1           (5) "Ballot" means:

2           (a) paper ballots used with paper-based systems, such optical  
3 scan, punchcard systems, or other technology that automatically  
4 tabulates votes cast by processing the paper ballots; or

5           (b) nonpaper-based ballots such as those used with lever  
6 machines, direct recording electronic machines, or other  
7 technologies.

8           (6) "Candidate" means:

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

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

20           (i) solicitation is made;

21           (ii) contribution is received and retained; or

22           (iii) expenditure is made; and

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

24           ~~(6)~~(7) (a) "Contribution" means:

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

27           (ii) a transfer of funds between political committees;

28           (iii) the payment by a person other than a candidate or

1 political committee of compensation for the personal services of  
2 another person that are rendered to a candidate or political  
3 committee.

4 (b) "Contribution" does not mean:

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

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

13 (iii) the cost of any communication by any membership  
14 organization or corporation to its members or stockholders or  
15 employees; or

16 (iv) filing fees paid by the candidate.

17 ~~(7)~~(8) "Election" means a general, regular, special, or  
18 primary election held pursuant to the requirements of state law,  
19 regardless of the time or purpose.

20 ~~(8)~~(9) "Election administrator" means the county clerk and  
21 recorder or the individual designated by a county governing body to  
22 be responsible for all election administration duties, except that  
23 with regard to school elections, the term means the school district  
24 clerk.

25 ~~(9)~~(10) "Elector" means an individual qualified and registered  
26 to vote under state law.

27 ~~(10)~~(11) (a) "Expenditure" means a purchase, payment,  
28 distribution, loan, advance, promise, pledge, or gift of money or



1 anything of value made for the purpose of influencing the results of  
2 an election.

3 (b) "Expenditure" does not mean:

4 (i) services, food, or lodging provided in a manner that they  
5 are not contributions under subsection (6);

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

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

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

16 ~~(11)~~(12) "Federal election" means a general or primary election  
17 in which an elector may vote for individuals for the office of  
18 president of the United States or for the United States congress.

19 ~~(12)~~(13) "General election" or "regular election" means an  
20 election held for the election of public officers throughout the  
21 state at times specified by law, including elections for officers of  
22 political subdivisions when the time of the election is set on the  
23 same date for all similar political subdivisions in the state. For  
24 ballot issues required by Article III, section 6, or Article XIV,  
25 section 8, of the Montana constitution to be submitted by the  
26 legislature to the electors at a general election, "general election"  
27 means an election held at the time provided in 13-1-104(1). For  
28 ballot issues required by Article XIV, section 9, of the Montana

1 constitution to be submitted as a constitutional initiative at a  
2 regular election, regular election means an election held at the time  
3 provided in 13-1-104(1).

4 ~~(13)~~(14) "Inactive elector" means an individual whose name is  
5 placed on an inactive list.

6 ~~(14)~~(15) "Inactive list" means a list of inactive electors  
7 maintained by an election administrator pursuant to 13-2-219.

8 ~~(15)~~(16) "Individual" means a human being.

9 ~~(16)~~(17) "Issue" or "ballot issue" means a proposal submitted  
10 to the people at an election for their approval or rejection,  
11 including but not limited to initiatives, referenda, proposed  
12 constitutional amendments, recall questions, school levy questions,  
13 bond issue questions, or a ballot question. For the purposes of  
14 chapters 35 and 37, an issue becomes a "ballot issue" upon  
15 certification by the proper official that the legal procedure  
16 necessary for its qualification and placement upon the ballot has  
17 been completed, except that a statewide issue becomes a "ballot  
18 issue" upon approval by the secretary of state of the form of the  
19 petition or referral.

20 ~~(17)~~(18) "Person" means an individual, corporation,  
21 association, firm, partnership, cooperative, committee, club, union,  
22 or other organization or group of individuals or a candidate as  
23 defined in subsection (5).

24 ~~(18)~~(19) "Political committee" means a combination of two or  
25 more individuals or a person other than an individual who makes a  
26 contribution or expenditure:

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

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

3 (c) as an earmarked contribution.

4 ~~(19)~~(20) "Political subdivision" means a county, consolidated  
5 municipal-county government, municipality, special district, or any  
6 other unit of government, except school districts, having authority  
7 to hold an election for officers or on a ballot issue.

8 ~~(20)~~(21) "Primary" or "primary election" means an election held  
9 throughout the state to nominate candidates for public office at  
10 times specified by law, including nominations of candidates for  
11 offices of political subdivisions when the time for nominations is  
12 set on the same date for all similar subdivisions in the state.

13 ~~(21)~~(22) "Public office" means a state, county, municipal,  
14 school, or other district office that is filled by the people at an  
15 election.

16 ~~(22)~~(23) "Registrar" means the county election administrator  
17 and any regularly appointed deputy or assistant election  
18 administrator.

19 ~~(23)~~(24) "Special election" means an election other than a  
20 statutorily scheduled primary or general election held at any time  
21 for any purpose provided by law. It may be held in conjunction with a  
22 statutorily scheduled election.

23 (25) "Valid vote" means a vote that has been counted as valid  
24 or determined to be valid as provided in [section 2].

25 (24)(a) "Voting ~~machine or device~~ system" means:

26 (i) any machine, devise, technology or equipment, such as an  
27 optical scan system, a punchcard system, or other technology used to  
28 automatically record, tabulate, or in any manner process the vote of

1 an elector cast on a paper ballot; or

2 (ii) a machine, devise, technology or equipment, such as a  
 3 lever machine, direct recording electronic machine, or other  
 4 technology that automatically records, tabulates, or processes the  
 5 vote of an elector cast on a nonpaper-based system.

6 (b) "Voting system" does not mean a manual system that used an  
 7 entirely manual process for recording, tabulating, and processing  
 8 votes, such as paper ballots that are manually counted."

9 {Internal References to 13-1-101:

10 x13-27-111 x13-37-103 x13-37-228 a13-37-250 }

11  
 12 **Section 6.** Section 13-1-103, MCA, is amended to read:

13 **"13-1-103. Determination of winner.** The individual receiving  
 14 the highest number of valid votes for any office at an election is  
 15 elected or nominated to that office."

16 {Internal References to 13-1-103: None.}

17  
 18 **Section 7.** Section 13-1-202, MCA, is amended to read:

19 **"13-1-202. Forms and rules prescribed by chief election**  
 20 **officer -- rulemaking -- consultation with local election**  
 21 **administrators.** (1) In carrying out ~~his~~ responsibilities under  
 22 13-1-201, the secretary of state shall prepare and deliver to the  
 23 election administrators, including administrators of school elections  
 24 under Title 20, chapter 20:

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

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

28 (c) advisory opinions on the effect of election laws other

1 than those laws in chapters 35, 36, or 37 of this title.

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

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

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

11 (a) evaluate voting system performance against the benchmark  
12 standard adopted pursuant 13-17-103(2);

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

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

17 (5) The secretary of state must regularly consult with and  
18 seek the advise of local election administrators in implementing the  
19 provisions of this section."

20 {Internal References to 13-1-202: None.}

21  
22 **Section 8.** Section 13-1-203, MCA, is amended to read:

23 **"13-1-203. Chief election officer to advise, assist, and**  
24 **train. (1)** The secretary of state shall advise and assist election  
25 administrators, including administrators of school elections under  
26 Title 20, chapter 20, with regard to:

27 (a) application, operation, and interpretation of Title 13,  
28 except for chapter 35, 36, or 37, and;

1        (b) the implementation and operation of the National Voter  
 2 Registration Act of 1993, Public Law 103-31; and

3        (c) the procedures adopted pursuant to [section 3]. The  
 4 secretary of state shall hold at least one workshop every 2 years to  
 5 provide training and assistance to election administrators. Election  
 6 administrators must be reimbursed, from funds appropriated to the  
 7 secretary of state, for their mileage and expenses for attending the  
 8 workshops at the rates set for mileage and expenses in 2-18-501  
 9 through 2-18-503. At the discretion of the secretary of state and  
 10 within the budget limits allowed for workshops, the workshops may be  
 11 held in several sessions at separate locations in the state.

12        (2) The secretary of state shall prepare and distribute  
 13 training materials for election judges to be trained pursuant to 13-  
 14 4-203. Sufficient copies of the materials to supply all election  
 15 judges in the county and provide a small extra supply must be sent to  
 16 each election administrator.

17        (3) The secretary of state shall hold at least one workshop  
 18 every 2 years to instruct election administrators and their staffs in  
 19 use of the materials. Workshops may be held in various locations  
 20 around the state. Costs of the materials and workshops shall be paid  
 21 by the secretary of state. Attendees of the training shall receive a  
 22 certificate of instruction, which is valid for 2 years."

23        {Internal References to 13-1-203: None.}

24  
 25        **Section 9.** Section 13-4-101, MCA, is amended to read:

26        **"13-4-101. Appointment of election judges — ~~other boards of~~**  
 27 **~~election judges.~~** (1) At least 30 days before the primary election in  
 28 even-numbered years, the county governing body shall appoint 3 or

1 more election judges for each precinct, one of whom shall be  
2 designated chief judge.

3 ~~(2) A board of election judges, designated as a counting~~  
4 ~~board, may be appointed in any precinct if recommended by the~~  
5 ~~election administrator.~~

6 ~~— (3) A board of election judges, designated as a counting board~~  
7 ~~for absentee ballots, may be appointed to count all absentee ballots~~  
8 ~~for all precincts if recommended by the election administrator."~~

9 {Internal References to 13-4-101:  
10 a13-15-104 a13-15-105}

11

12 **Section 10.** Section 13-4-102, MCA, is amended to read:

13 **"13-4-102. Manner of choosing election judges.** (1) Election  
14 judges shall be chosen from lists of qualified registered electors  
15 for each precinct in the county, submitted at least 45 days before  
16 the primary election in even-numbered years by the county central  
17 committees of the political parties eligible to nominate candidates  
18 in the primary.

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

23 (3) Each board of election judges shall contain judges  
24 representing all parties that have submitted lists as provided in  
25 subsection (1). No more than a majority may be appointed from the  
26 list of one political party in each precinct. If any of the political  
27 parties entitled to do so fail to submit a list, the governing body  
28 shall, insofar as possible, appoint judges so that all parties

1 eligible to participate in the primary are represented on each board.

2 (4) The election administrator shall make appointments to fill  
3 vacancies from the list provided for in subsection (2). If the list  
4 is insufficient or if one or more of the eligible political parties  
5 fails to submit a list, the election administrator may randomly  
6 select, either by manual drawing or by computer, sufficient qualified  
7 registered electors in the county to fill election judge vacancies in  
8 all precincts.

9 (5) An elector chosen to potentially serve as an election  
10 judge must be notified of selection at least ~~30~~ 25 days before the  
11 primary election in even-numbered years. Each elector who agrees to  
12 serve as an election judge shall attend a training class conducted  
13 under 13-4-203 and shall continue to serve as assigned by the  
14 election administrator for 2 years."

15 {Internal References to 13-4-102:  
16 r13-4-107 x13-13-226}

17

18 **Section 11.** Section 13-4-203, MCA, is amended to read:

19 **"13-4-203. Instruction of judges -- training materials.** (1)  
20 Before each election, all election judges who do not possess a  
21 current certificate of instruction ~~shall~~ obtained pursuant to 13-1-  
22 203(3) must be instructed by the election administrator. In precincts  
23 where voting ~~machines or devices~~ systems are used, instructions shall  
24 cover both ~~machines or devices~~ the voting system used and how to  
25 manually process any paper ballots.

26 (2) Chief judges may be required to attend the training  
27 session before each election, as well as a special session that may  
28 be held for chief judges only, even if they possess a current



1 certificate of instruction.

2 (3) Any individual willing to be appointed an election judge  
3 may attend an instruction session by registering with the election  
4 administrator. ~~Such individuals~~ However, the individual may not be  
5 paid for attendance unless they are appointed election judges.

6 (4) ~~The secretary of state shall prepare and distribute~~  
7 ~~training materials for election judges. The materials shall include~~  
8 ~~instructions on the use of all machines or devices approved for use~~  
9 ~~in this state, as well as paper ballots. Enough copies of the~~  
10 ~~materials to supply all election judges in the county and provide a~~  
11 ~~small extra supply shall be sent to each election administrator. The~~  
12 ~~secretary of state shall hold at least one workshop every 2 years to~~  
13 ~~instruct election administrators and their staffs in use of the~~  
14 ~~materials. Workshops may be held in various locations around the~~  
15 ~~state. Costs of the materials and workshops shall be paid by the~~  
16 ~~secretary of state.~~

17 (5) Each election judge completing a training session under  
18 this section shall be given a certificate of completion. ~~No~~ An  
19 individual may not serve as an election judge without a valid  
20 certificate obtained under 13-1-203(3) or this section. However, this  
21 does not apply to individuals filling vacancies in emergencies.

22 (6)(5) All certificates of completion expire 30 days before  
23 the primary election in even-numbered years.

24 (7)(6) Notice of place and time of instruction must be given  
25 by the election administrator to the presiding officers of the  
26 political parties in the county ~~chairmen of the political parties."~~

27 {Internal References to 13-4-203:  
28 x13-4-102}

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**Section 12.** Section 13-10-204, MCA, is amended to read:

**"13-10-204. Write-in nominations.** An individual nominated by having ~~his~~ the individual's name written in or otherwise manually inserted on the primary ballot and desiring to accept the nomination may not have ~~his~~ the individual's name ~~printed~~ appear on the general election ballot unless ~~he~~ the individual:

(1) files with the secretary of state or election administrator no later than 10 days after the official canvass, a written declaration indicating his acceptance of the nomination;

(2) pays the required filing fee or, if indigent, complies with 13-10-203;

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

(4) complies with the provisions of 13-37-126."

{*Internal References to 13-10-204:*  
x13-10-305      x13-15-405      x13-15-507}

**Section 13.** Section 13-10-208, MCA, is amended to read:

**"13-10-208. Certificate of primary ballot -- printing preparation of ballot.** (1) Not more than 75 days and not less than 67 days before the date of the primary election, the secretary of state shall certify to the election administrators the names and designations of candidates, except as provided in 13-37-126, and any ballot issues as shown in the official records of the secretary of state's office in the manner provided in 13-10-209 and chapter 12, part 2, of this title.

1 (2) Not more than 67 days and not less than 62 days before the  
 2 date of the primary election, the election administrator shall  
 3 certify the names and designations of candidates, except as provided  
 4 in 13-37-126, and any ballot issues as shown in the official record  
 5 of the election administrator's office and have the official ballots  
 6 ~~printed~~ prepared in the manner provided in 13-10-209 and chapter 12,  
 7 part 2, of this title.

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

13 {Internal References to 13-10-208:  
 14 a13-12-201 x13-37-126}

15  
 16 **Section 14.** Section 13-10-209, MCA, is amended to read:

17 **"13-10-209. Arrangement and ~~printing~~ preparing of primary**  
 18 **ballots.** (1) (a) Ballots for a primary election must be arranged and  
 19 ~~printed~~ provided for in the same manner and number as provided in  
 20 chapter 12 for general election ballots, except there must be  
 21 separate ballots for each political party entitled to participate.  
 22 The name of the political party must ~~be printed~~ appear at the top of  
 23 the separate ballot for that party and need not ~~be printed~~ appear  
 24 opposite each candidate's name.

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

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

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

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

5 (2) An election administrator does not need to ~~print~~ provided  
6 for a primary ballot for a political party if:

7 (a) the party does not have candidates for more than half of  
8 the offices to be printed on the ballot; and

9 (b) no more than one candidate files for nomination by that  
10 party for any of the offices to be printed on the ballot.

11 (3) If, pursuant to subsection (2), a primary ballot for a  
12 political party is not ~~printed~~ prepared, the secretary of state shall  
13 certify that a primary election is unnecessary for that party and  
14 shall instruct the election administrator to certify the names of the  
15 candidates for that party for the general election ballot only.

16 (4) The separate ballots for each party must ~~be the same size~~  
17 ~~and color~~ have the same specifications. ~~The stubs of each~~ Each set  
18 of ~~party~~ paper ballots must bear the same number. If ~~printed~~ prepared  
19 as a separate ballot, the nonpartisan ballot must be ~~a different size~~  
20 ~~or color than~~ distinguishable from the party ballots, but ~~the stubs~~  
21 ~~must be~~ numbered in the same order as the party ballots.

22 (5) If a ballot issue is to be voted on at a primary election,  
23 it may be placed on the nonpartisan ballot or on a separate ballot. A  
24 separate ballot may be a different size and color than the other  
25 ballots in the election, but ~~the stubs~~ must be numbered in the same  
26 order.

27 (6) Each elector shall receive a set of ~~party~~ ballots ~~and a~~  
28 that includes the party, nonpartisan, and a ballot issue ballot if

1 ~~those ballots are printed choices."~~

2 {Internal References to 13-10-209:  
3 s13-10-208 x13-10-208 x13-12-203}

4

5 **Section 15.** Section 13-10-301, MCA, is amended to read:

6 **"13-10-301. Casting of ballot.** (1) Unless otherwise provided  
7 by law, the conduct of the primary election, the voting procedure,  
8 the counting, tallying, and return of ballots and all election  
9 records and supplies, the canvass of votes, the certification and  
10 notification of nominees, recounts, procedures upon tie votes, and  
11 any other necessary election procedures shall be at the same times  
12 and in the same manner as provided for in the laws for the general  
13 election.

14 (2) At a primary election, the elector shall ~~mark~~ cast votes  
15 on only one of the set of party ballots and prepare each ballot to be  
16 cast in the manner prescribed in 13-13-117.

17 (3) After marking any other ballots received other than the  
18 party ballots, the elector shall ~~fold the marked and unmarked ballots~~  
19 ~~separately in a manner so that the marks cannot be seen, the official~~  
20 ~~stamp is visible on each ballot, and all stubs can be detached by an~~  
21 ~~election judge~~ turn the ballots in to the election judges as  
22 instructed pursuant to 13-13-112.

23 (3) ~~The elector shall hand the marked and unmarked ballots~~  
24 ~~separately to the election judge, identifying them as marked and~~  
25 ~~unmarked. If the judge determines the ballots may be voted, he shall,~~  
26 ~~in the presence of the elector:~~

27 ~~— (a) remove the stubs from all the ballots;~~

28 ~~— (b) deposit the unmarked ballot or ballots and all the stubs~~

1 ~~in the stub and unmarked ballot box;~~

2 ~~— (c) and deposit the marked ballots in the voted ballot box.~~

3 (4) The election judge shall handle the elector's ballot in as  
4 prescribed in 13-13-117."

5 {Internal References to 13-10-301: None.}

6  
7 **Section 16.** Section 13-10-303, MCA, is amended to read:

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

20 {Internal References to 13-10-303:  
21 x13-12-203}

22  
23 **Section 17.** Section 13-10-311, MCA, is amended to read:

24 **"13-10-311. Election judges' duties upon closing of polls**  
25 **preparing for count.** (1) The election judges at the primary election  
26 shall prepare for a count of votes cast on paper or non-paper ballots  
27 as prescribed in 13-15-201, except as provided in this section.

28 (2) In preparing for a count of paper ballots, the election

1 judges shall:

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

4 ~~(2)(b) They shall reconcile the total number of party ballots~~  
5 ~~and the separate total number of other ballots used at the election~~  
6 ~~with the number of electors voting. Any discrepancies in the~~  
7 ~~reconciliations shall be handled as provided in 13-15-201(3);~~

8 ~~(3) Each party's candidates shall be listed~~ (c) list each  
9 party's candidates separately in the tally books.

10 ~~(4) The voted ballots of each party shall be bundled~~ (d)  
11 bundle the voted ballots for each party separately for return to the  
12 election administrator. ~~The unvoted ballots deposited deposited in~~  
13 ~~the stub box shall be bundled and bundle with the stubs~~ the unvoted  
14 ballots deposited in the stub box.

15 (3) The election judges at a primary election shall prepare  
16 for counting non-paper ballots in the manner prescribed in 13-15-  
17 201(2)."

18 {Internal References to 13-10-311: None.}

19

20 **Section 18.** Section 13-12-201, MCA, is amended to read:

21 **"13-12-201. Secretary of state to certify ballot. (1)**

22 Seventy-five days or more before an election, except as provided in  
23 13-10-208, the secretary of state shall certify to the election  
24 administrators the name and party or other designation of each  
25 candidate entitled to appear on the ballot and the ballot issues as  
26 shown in the official records of the secretary of state's office,  
27 which must include the notification specified in 13-37-126.

28 (2) The election administrator shall certify the name and

1 party or other designation of each candidate entitled to appear on  
 2 the ballot and the ballot issues as shown in the official records of  
 3 the election administrator's office, which must include the  
 4 notification specified in 13-37-126, and shall have the official  
 5 ballots ~~printed~~ prepared.

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

11 {Internal References to 13-12-201:  
 12 x13-37-126}

13  
 14 **Section 19.** Section 13-12-202, MCA, is amended to read:

15 **"13-12-202. Ballot form and uniformity -- rulemaking.** (1) The  
 16 secretary of state shall adopt statewide uniform rules that prescribe  
 17 the ballot form for ~~all types of ballots~~ each type of ballot used in  
 18 this state. The rules must conform to the provisions of this title  
 19 unless the voting system used clearly requires otherwise. At a  
 20 minimum, the rules must address:

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

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

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

27 (2) The names of all candidates ~~printed upon~~ to appear on the  
 28 ballots ~~shall~~ must be in ~~type of~~ the same font size and ~~character~~



1 style.

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

5 (4) The ballots must contain the name of every candidate whose  
6 nomination is certified under law for an office and no other names,  
7 except that the names of candidates for president and vice president  
8 of the United States shall appear on the ballot as provided in  
9 13-25-101(2)."

10 {Internal References to 13-12-202: None.}

11

12 **Section 20.** Section 13-12-203, MCA, is amended to read:

13 **"13-12-203. Printing Appearance of candidate's name and party**  
14 **designation on ballot.** (1) ~~Except~~ Subject to 13-12-202 and except as  
15 provided for nonpartisan office in 13-10-209 and for certain  
16 candidates under 13-10-303~~7~~, in partisan elections, candidates' names  
17 shall ~~be printed~~ appear under the title of the office sought, with  
18 the name of the party, in not more than three words, ~~or "Independent"~~  
19 ~~printed~~ appearing opposite the name.

20 (2) ~~In~~ Subject to 13-12-202, in nonpartisan elections, the  
21 candidates' names shall ~~be printed~~ appear under the title of the  
22 office sought, with no description or designation ~~printed~~ appearing  
23 with the name unless partisan and nonpartisan offices appear on the  
24 same ballot. In such a case, the names of nonpartisan candidates  
25 shall ~~have printed~~ appear with ~~them~~ the words "Nominated without  
26 party designation"."

27 {Internal References to 13-12-203: None.}

28

1           **Section 21.** Section 13-12-204, MCA, is amended to read:

2           **"13-12-204. Method of correction of ballot.** If an appointment  
3 has been made to replace a candidate, as provided in 13-10-326,  
4 13-10-327, or 13-10-328, or if a candidate for lieutenant governor  
5 has been advanced to the candidacy for governor, as provided in  
6 13-10-328, after the ballots have been ~~printed~~ prepared but before  
7 the election, the election administrator may:

8           (1) ~~order labels printed containing the name of the new~~  
9 ~~candidate and any other information required to go on the ballot. If~~  
10 ~~labels are printed, the election administrator shall affix the labels~~  
11 ~~in the proper place on each ballot or deliver the labels to the chief~~  
12 ~~election judges to be affixed in the proper place on each ballot~~  
13 ~~before it is given to the elector~~ correct the ballot in a manner  
14 prescribed by the secretary of state pursuant to 13-12-202.

15           (2) have the entire ballot ~~reprinted~~ redone; or

16           (3) have a separate ballot prepared only for the office for  
17 which the new candidate is a candidate."

18           {*Internal References to 13-12-204:*

19           x13-10-327           x13-10-328           x13-25-101           x13-25-101}

21           **Section 22.** Section 13-12-205, MCA, is amended to read:

22           **"13-12-205. Arrangement of names -- rotation on ballot.** (1)  
23 The candidates' names shall be arranged alphabetically on the ballot  
24 according to surnames under the title of the respective offices.

25           (2) (a) Except as provided in subsection (3), if two or more  
26 individuals are candidates for nomination or election to the same  
27 office, the election administrator shall divide the ballot ~~forms~~ form  
28 into sets equal in number to the greatest number of candidates for

1 any office. The candidates for nomination to an office by each  
2 political party shall be considered separately in determining the  
3 number of sets necessary for a primary election.

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

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

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

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

21 (3) In a precinct where ~~voting devices are~~ a voting system is  
22 used that does not use a paper-based ballot, the election  
23 administrator need not rotate candidates' names as provided in  
24 subsection (2) on the paper ballots required under 13-17-305+  
25 ~~however, if~~ unless more than 5% of the electors voting in the  
26 precinct in the last preceding general election voted using the paper  
27 ~~ballots, the election administrator shall rotate candidates' names on~~  
28 ~~the paper ballots~~. If the candidates' names are not rotated, the

1 election administrator shall determine by lot the arrangement of the  
 2 names on the paper ballot required under 13-17-305."

3 {Internal References to 13-12-205:  
 4 a76-15-303}

5  
 6 **Section 23.** Section 13-12-212, MCA, is amended to read:

7 **"13-12-212. Election administrator to provide printed official**  
 8 **ballots -- other ballots prohibited.** ~~Except as otherwise provided in~~  
 9 ~~the election laws of this state:~~

10 ~~(1) the Each election administrator shall provide printed the~~  
 11 ~~official ballots for every election conducted by that election~~  
 12 ~~administrator. He shall have printed on the ballot the names of all~~  
 13 ~~candidates for all offices to be filled at the election and the title~~  
 14 ~~and other wording required by law for all ballot issues.~~

15 ~~— (2) ballots A ballot other than those printed an official~~  
 16 ~~ballot by the election administrator may not be cast or counted in~~  
 17 ~~any election."~~

18 {Internal References to 13-12-212:  
 19 x13-27-502 x13-27-502}

20  
 21 **Section 24.** Section 13-13-111, MCA, is amended to read:

22 **"13-13-111. Provision and use of election booths, voting**  
 23 **machines, or voting devices stations.** (1) The election administrator  
 24 shall provide a sufficient number of ~~booths, voting machines, or~~  
 25 ~~voting devices stations~~ to allow voting to proceed with as little  
 26 delay as possible.

27 ~~(2) Booths, voting machines, or voting devices Voting stations~~  
 28 ~~must be arranged in a manner that will not permit any other~~  
 29 ~~individual to see how the elector votes or has voted, ~~and the~~~~

1 ~~election judges may not permit any individual to remain in any~~  
 2 ~~position that would allow him to see how the elector votes or has~~  
 3 ~~voted.~~

4 ~~(2)(3)~~ No more than one individual may occupy a booth voting  
 5 station at one time, except when assistance is furnished to an  
 6 elector as provided by law. ~~No~~

7 ~~(4)~~ An individual may not occupy a ~~booth or use a voting~~  
 8 ~~machine or device~~ station longer than is reasonably necessary to  
 9 prepare ~~his~~ the elector's ballot, after which the election judges may  
 10 eject ~~him~~ the elector from the station."

11 {Internal References to 13-13-111: None.}

12  
 13 **Section 25.** Section 13-13-112, MCA, is amended to read:

14 **"13-13-112. Display of instructions for electors. (1)**

15 ~~Instructions~~ Except as provided in subsection (3), instructions for  
 16 electors on how to prepare their ballots or use ~~machines or devices a~~  
 17 voting system must be posted in each ~~compartment~~ voting station  
 18 provided for the preparation of ballots and elsewhere in the polling  
 19 place.

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

22 (a) obtain ballots for voting;

23 (b) prepare ballots, including how to:

24 (i) cast a vote for a write-in candidate;

25 (ii) correct a mistake; and

26 (iii) provide for the proper disposition of the ballot by the  
 27 election judges for deposit in the ballot box; and

28 (c) obtain a new ballot in place of one spoiled by accident.

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

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

12 {Internal References to 13-13-112:  
 13 x13-13-117 x13-13-117}

14  
 15 **Section 26.** Section 13-13-115, MCA, is amended to read:

16 "**13-13-115. Pollbooks.** (1) In precincts using paper ballots,  
 17 the name of each elector who votes ~~shall~~ must be entered in a  
 18 pollbook and numbered in ~~the~~ order ~~voting~~ so that the number  
 19 corresponds with the number on the ~~stubs of the ballots given the~~  
 20 ~~elector~~ elector's ballot stub ~~or~~ and so that an election judge may  
 21 ~~use a numbering device to stamp~~ record the number of the ballot stub  
 22 next to the name of the elector in a precinct register/pollbook.

23 (2) In ~~precincts~~ each precinct where ~~machines or devices are a~~  
 24 non-paper ballot voting system is used, a pollbook ~~need be used only~~  
 25 ~~for paper ballots. The~~ the election administrator shall ~~provide such~~  
 26 ~~precincts with some~~ use the method of recording the number of  
 27 individuals voting prescribed by the secretary of state pursuant to  
 28 [section 3]."

1 {Internal References to 13-13-115: None.}

2  
3 **Section 27.** Section 13-13-116, MCA, is amended to read:

4 **"13-13-116. Ballots to be ~~stamped~~ marked -- one ballot to**  
5 **elector.** (1) Before delivering ~~ballots~~ a paper ballot to an elector,  
6 ~~the an~~ election ~~judges~~ judge shall ~~stamp~~ ensure that the ballot is  
7 marked with the words "official ballot" ~~on the ballot~~. ~~A~~ If a stamp  
8 is used, any part of the stamp ~~may not appear~~ appearing on the stub  
9 complies with this section. ~~They shall~~ A paper ballot may also stamp  
10 be marked with the name of the county, the number of the precinct,  
11 ~~and or,~~ subject to 13-12-202, any other information the election  
12 administrator believes necessary to distinguish the ~~ballots~~ ballot  
13 from ~~those~~ a ballot used in any other election.

14 (2) Each elector shall receive from the election judges one of  
15 each type of ballot being used at the election."

16 {Internal References to 13-13-116:  
17 a13-13-214}

18  
19 **Section 28.** Section 13-13-117, MCA, is amended to read:

20 **"13-13-117. Method of voting.** (1)(a) Upon receipt of a paper  
21 ballot or, if a nonpaper-based ballot is use, after marking the  
22 precinct register under 13-13-114, an elector shall immediately  
23 retire to ~~one of the booths~~ a voting station and prepare the  
24 elector's ballot.

25 ~~(2)(b)~~ The elector shall prepare the ballot in the manner  
26 prescribed in the instructions ~~for electors~~ provided pursuant to  
27 13-13-112.

28 ~~(3)(c)~~ The elector may vote for a write-in candidate by

1 marking the ballot in a manner consistent with the instructions  
2 provided by ~~the election administrator~~ pursuant to 13-13-112. ~~Except~~  
3 ~~as provided in 13-15-202, a ballot marked for a write-in candidate in~~  
4 ~~accordance with the appropriate instructions must be counted as if~~  
5 ~~the name of the write-in candidate had been printed on the ballot.~~

6 (d) If an elector makes a mistake or spoils the elector's  
7 ballot, the elector must be provided with a new ballot after the  
8 mistake or spoiled ballot is voided.

9 (4)(2) After the elector has completed voting:

10 (a) The judge receiving the ballots a paper ballot shall  
11 remove the stubs stub in sight of the elector and deposit each ballot  
12 in the ballot box and each stub in a box for detached stubs. The  
13 judge shall place the ballots ballot in the ballot box immediately  
14 without opening or examining them it.

15 (5) No individual except an election judge may put a ballot,  
16 into a ballot box, nor may any individual put any paper resembling a  
17 ballot, or anything other than a ballot in a ballot box.

18 (b) The disposition of the elector's votes on a nonpaper-based  
19 ballot must be as prescribed for the voting system pursuant to  
20 [section 3].

21 ~~(6) An elector who spoils the elector's ballot must, on~~  
22 ~~returning the spoiled ballot, receive another in place of it."~~

23 {Internal References to 13-13-117: None.}

24  
25 **Section 29.** Section 13-13-201, MCA, is amended to read:

26 **"13-13-201. Voting by absentee ballot -- procedures.** (1) A  
27 qualified registered elector is entitled to vote by absentee paper  
28 ballot as provided for in this part.



1 (2) The elector may vote the absentee paper ballot by:

2 (a) marking the ballot in the manner specified;

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

5 (c) placing the secrecy envelope containing one ballot for  
6 each election being held in the return and verification envelope;

7 (d) executing the affidavit printed on the return and  
8 verification envelope; and

9 (e) returning the return ~~and verification~~ envelope with ~~the~~  
10 ~~secrecy envelope containing the ballot or ballots enclosed, as~~  
11 ~~provided in 13-13-221~~ all appropriate enclosures by regular mail,  
12 postage prepaid, or deliver it to the election administrator or the  
13 special absentee election board."

14 {Internal References to 13-13-201:  
15 a13-13-203}

16  
17 **Section 30.** Section 13-13-203, MCA, is amended to read:

18 **"13-13-203. Absentee ballots where nonpaper-based voting**  
19 **~~machines or devices systems~~ used.** (1) In precincts where voting  
20 ~~machines or devices systems~~ are used that do not use a paper-based  
21 ballot, the election administrator shall ~~if necessary~~ print and  
22 provide:

23 (a) paper ballots in the official form specified under 13-12-  
24 202 for qualified electors who may vote absentee as provided in  
25 13-13-201; and

26 (b) ballot boxes required for ~~precincts in which printed~~  
27 ~~ballots are used~~ each precinct.

28 (2) Absentee ballots received in those precincts shall be

1 handled as provided ~~in this chapter~~ by law."

2 {Internal References to 13-13-203: None.}

3

4 **Section 31.** Section 13-13-205, MCA, is amended to read:

5 **"13-13-205. When ballots to be available.** (1) The election  
6 administrator shall ensure that paper ballots are printed and  
7 available for absentee voting at least 45 days prior to an election  
8 for those elections held in compliance with 13-1-104(1) and  
9 13-1-107(1).

10 (2) For elections held in compliance with 13-1-104(2) and (3)  
11 and 13-1-107(2), the election administrator shall ensure that paper  
12 ballots are printed and available for absentee voting at least 20  
13 days prior to an election."

14 {Internal References to 13-13-205: None.}

15

16 **Section 32.** Section 13-13-211, MCA, is amended to read:

17 **"13-13-211. Time period for application.** ~~An~~ (1) Except as  
18 provided in 13-13-222 and subsection (2), an application for an  
19 absentee ballot must be made during a period beginning 75 days before  
20 the day of election and ending at noon on the day before the  
21 election.

22 (2) However, a qualified elector who is prevented from voting  
23 at the polls as a result of illness or health emergency occurring  
24 between 5 p.m. of the Friday preceding the election and noon on  
25 election day may request to vote by absentee ballot as provided in  
26 13-13-212(3)."

27 {Internal References to 13-13-211:

28 a13-13-212 a13-13-212}

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**Section 33.** Section 13-13-212, MCA, is amended to read:

**"13-13-212. Application for absentee ballot -- special provisions.** (1) An elector may apply for an absentee ballot by making a written request, signed by the applicant, to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(2) An elector in the United States service absent from the state and county in which the elector is registered may apply for an absentee ballot as follows:

(a) as provided in subsection (1);

(b) by using the federal postcard application signed by the applicant and made within the time period specified in 13-13-211; or

(c) if eligible, by using the federal write-in ballot as provided in 13-13-271(3).

(3) (a) If an elector requests an absentee ballot because of a sudden illness or health emergency, the application for an absentee ballot may be made by written request signed by the elector at the time that the ballot is delivered in person by the special absentee election board provided for in 13-13-225.

(b) The elector may request by telephone, facsimile transmission, or other means to have a ballot and application personally delivered by the special absentee election board at the elector's place of confinement, hospitalization, or residence within the county.

(c) A request under this subsection (3) must be received by the election administrator ~~by noon on election day~~ within the time period specified in 13-13-212(2).

1           (4) An elector who has made a request for an absentee ballot  
 2 by one of the methods provided in this section may, in the event of  
 3 the death of a candidate after the primary election but before the  
 4 general election, make a request for a replacement ballot. The  
 5 request for a replacement ballot may be made orally to the election  
 6 administrator."

7 {Internal References to 13-13-212:  
 8 x13-13-213           x13-13-229           x13-13-271}

9  
 10           **Section 34.** Section 13-13-214, MCA, is amended to read:

11           **"13-13-214. Mailing absentee ballot to elector -- delivery to**  
 12 **person other than elector.** (1) (a) Except as provided in 13-13-213  
 13 and in subsection (1)(b) of this section, as soon as the official  
 14 paper absentee ballots are printed, the election administrator shall  
 15 immediately send by mail, postage prepaid, to each elector from whom  
 16 the election administrator has received a valid application under 13-  
 17 13-211 and 13-13-212 whatever official ballots are necessary. ~~Ballots~~  
 18 ~~must be sent immediately to electors submitting valid requests after~~  
 19 ~~the official ballots are printed.~~

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

22           (i) the elector has designated the individual, either by a  
 23 signed letter or by making the designation on the application form in  
 24 a manner prescribed by the secretary of state;

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

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

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

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

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

6 (b) ~~a self-addressed~~ an envelope for the return of the ballots.  
7 ~~An~~ The envelope must be self-addressed to the election administrator  
8 and an affirmation in the form prescribed by the secretary of state  
9 must be printed on the back of the envelope.

10 (3) The election administrator shall ~~stamp~~ ensure the ballots  
11 provided to an absentee elector are marked as provided in 13-13-116  
12 and remove the stubs from the ballots, attaching the stubs to the  
13 elector's absentee ballot application.

14 (4) ~~Both~~ If the ballot is being sent to an elector in the  
15 United States service, both the envelope in which the ballot is  
16 mailed ~~to an elector in the United States service~~ and the return  
17 envelope must have printed across the face the information and  
18 graphics and be of the color prescribed by the secretary of state  
19 consistent with the regulations established by the federal election  
20 commission, the U.S. postal service, or other federal agency.

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

26 (6) Instructions for voting must be enclosed with the ballots.  
27 Instructions for primary elections must include use of the envelope  
28 for unvoted ballots. The instructions must include information

1 concerning the type or types of ~~writing~~ instruments that may be used  
2 to mark the absentee ballot. The instructions must include  
3 information regarding use of the secrecy envelope and use of the  
4 return and verification envelope. The election administrator shall  
5 include a voter information pamphlet with the instructions if:

6 (a) a statewide ballot issue appears on the ballot mailed to  
7 the elector;

8 (b) the elector is out of the state or will be out of the  
9 state at the time of the election; and

10 (c) the elector requests a voter information pamphlet.

11 ~~(7) The return envelope must be self-addressed to the election~~  
12 ~~administrator."~~

13 {Internal References to 13-13-214:  
14 x13-13-213}

15  
16 **Section 35.** Section 13-13-222, MCA, is amended to read:

17 **"13-13-222. Marking ballot before election day.** (1) As soon as  
18 the official ballots are available pursuant to 13-13-205, the  
19 election administrator shall permit an elector to apply for, receive,  
20 and mark the an absentee ballot before election day by appearing and  
21 marking the ballot in person before the election administrator.

22 (2) The provisions of this chapter apply to voting under this  
23 section.

24 (3) If the ballot is marked before the election administrator,  
25 the election administrator shall deal with it ~~in the same manner as~~  
26 ~~if it had come by mail~~ as provided in 13-13-231."

27 {Internal References to 13-13-222:  
28 x13-3-213}

1           **Section 36.** Section 13-13-229, MCA, is amended to read:

2           **"13-13-229. Voting performed before special absentee election**  
 3 **board.** (1) Pursuant to 13-13-212(3), the elector may request that a  
 4 special absentee election board personally deliver a ballot to the  
 5 elector.

6           (2) The manner and procedure of voting by use of an absentee  
 7 ballot under this section must be the same as provided in ~~13-13-221~~  
 8 13-13-201, except that the elector shall hand the marked ballot in  
 9 the sealed return envelope to the special absentee election board,  
 10 and the board shall deliver the sealed return envelope to the  
 11 election administrator or to the election judges of the precinct in  
 12 which the elector is registered.

13           (3) An absentee ballot cast by a qualified elector pursuant to  
 14 this section may not be rejected by the election administrator if the  
 15 ballot was in the possession of the board before the time designated  
 16 for the closing of the polls.

17           (4) An elector who needs assistance in marking the elector's  
 18 ballot because of physical incapacity or inability to read or write  
 19 may receive assistance from the special absentee election board  
 20 appointed to personally deliver the ballot. Any assistance given an  
 21 elector pursuant to this section must be provided in substantially  
 22 the same manner as required in 13-13-119."

23           {*Internal References to 13-13-229:*

24           x13-13-225           x13-13-230           x13-13-230 }

25  
 26           **Section 37.** Section 13-13-231, MCA, is amended to read:

27           **"13-13-231. Disposition of marked ballot upon receipt by**  
 28 **election administrator.** (1) Upon receipt of the voted absentee

1 ballot, the election administrator shall immediately attach the  
2 elector's application to the unopened return envelope and mark the  
3 precinct number for delivery.

4 (2) The election administrator shall safely keep the absentee  
5 ballots in the election administrator's office until delivered by the  
6 election administrator to the election judges.

7 (3) If the election administrator receives an absentee ballot  
8 for which an application or request was not made or received as  
9 required by 13-13-212 through 13-13-213, the election administrator  
10 shall endorse upon the elector's envelope the date and exact time of  
11 receipt and the words "to be rejected". Absentee ballots endorsed in  
12 this manner must be handled as provided in 13-13-243."

13 {Internal References to 13-13-231: None.}

14  
15 **Section 38.** Section 13-13-232, MCA, is amended to read:

16 **"13-13-232. Delivery of returned absentee ballots, secrecy**  
17 **envelopes, and return envelopes to election judges---ballots to be**  
18 **rejected.** (1) ~~If the All voted absentee ballot is received prior to~~  
19 ~~delivery of ballots received and processed under 13-13-231 prior to~~  
20 ~~the delivery of the official ballots to the election judges, the~~  
21 ~~election administrator shall deliver the unopened return envelope to~~  
22 ~~the judges at the same time that the ballots are delivered. The~~  
23 ~~return envelopes must be opened and the ballots processed according~~  
24 ~~to the procedures described in 13-13-241 must be delivered in their~~  
25 ~~unopened return envelopes to the election judges at the same time the~~  
26 ~~official ballots are delivered.~~

27 (2) ~~If A voted absentee ~~ballots are~~ ballot received and~~  
28 ~~processed under 13-13-231 after the ballots ~~are~~ have been delivered~~



1 to the election judges but prior to the close of the polls, ~~the~~  
2 ~~election administrator shall~~ must be immediately deliver the unopened  
3 ~~return envelopes~~ delivered in the ballot's unopened return envelope  
4 to the judges. ~~The return envelopes must be opened and the ballots~~  
5 ~~processed according to the procedures described in 13-13-241.~~

6 ~~(3) If the election administrator receives an absentee ballot~~  
7 ~~for which an application or request was not made or received as~~  
8 ~~required by this part, the election administrator shall endorse upon~~  
9 ~~the elector's envelope the date and exact time of receipt and the~~  
10 ~~words "to be rejected". Absentee ballots endorsed in this manner must~~  
11 ~~be retained by the election administrator and placed with the proper~~  
12 ~~records when they are returned to the election administrator.~~

13 (3) Election judges shall process the absentee ballots as  
14 provided in 13-13-241."

15 {Internal References to 13-13-232: None.}

16  
17 **Section 39.** Section 13-13-233, MCA, is amended to read:

18 **"13-13-233. Issue and record of absentee ballots --**  
19 **certificate to election judges.** (1) ~~The absentee~~ Absentee ballots  
20 ~~delivered shall~~ must be regular official numbered paper ballots  
21 beginning with ballot number 1 and following consecutively according  
22 to the number of applications for absentee ballots.

23 (2) The election administrator shall keep a record of all  
24 absentee ballots ~~delivered, as well as of ballots marked before him~~  
25 issued under this chapter.

26 (3) ~~The~~ When the election administrator ~~shall deliver to the~~  
27 ~~chief election judges to whom the ballots are delivered~~ delivers the  
28 voted absentee ballots under 13-13-232(1), the election administrator

1 shall also provide a certificate stating:

2 (a) the ~~number~~ ballot numbers of the absentee ballots mailed  
3 under 13-13-214, delivered under 13-13-229, ~~as well as those, and~~  
4 marked before ~~him~~ the election administrator under 13-13-222;

5 (b) the number of ballots ~~retained to be reserved~~ for late  
6 absentee voting pursuant to 13-13-211(2); and

7 (c) the names of the electors within the precinct to whom ~~such~~  
8 the ballots were ~~delivered or by whom they have been marked if marked~~  
9 ~~before him~~ provided.

10 (4) The chief election judge shall post in a conspicuous  
11 location at the polling place a list of the names of electors  
12 appearing on the certificate required under subsection (3)."

13 {*Internal References to 13-13-233: None.*}

14

15 **Section 40.** Section 13-13-234, MCA, is amended to read:

16 "**13-13-234. Duty of election judges -- pollbook.** (1) The  
17 election judges, at the opening of the polls, shall:

18 (a) note on the pollbook opposite the appropriate ballot  
19 numbers ~~corresponding to the number of absentee ballots issued the~~  
20 fact that the ballots were issued as absentee ballots; and

21 (b) reserve the numbers for ~~the absent, chronically ill, or~~  
22 ~~physically incapacitated electors, as well as those electors~~  
23 ~~prevented from voting at the polls because of a sudden illness or~~  
24 ~~health emergency~~ electors who may vote late under 13-13-211(2).

25 (2) The election judges shall insert only the name of the  
26 elector entitled to each particular number according to the  
27 certificate ~~of~~ provided by the election administrator pursuant to 13-  
28 13-233(3) and the number of ~~his~~ the elector's ballot."

1 {Internal References to 13-13-234: None.}

2  
3 **Section 41.** Section 13-13-241, MCA, is amended to read:

4 **"13-13-241. Examination of absentee ballot return envelopes**  
5 **and affirmations while polls open -- deposit of absentee and unvoted**  
6 **ballots.** (1)(a) While the polls are open or after the polls have  
7 closed, the election judges ~~may~~ shall compare the signature of the  
8 elector on the absentee ballot ~~request~~ application and the signature  
9 on the return envelope's affirmation.

10 (b) If ~~they~~ the election judges find that the signatures  
11 correspond, that the affirmation is sufficient, and that the absentee  
12 elector is qualified, they ~~may open the absentee ballot return~~  
13 ~~envelope~~ shall process the ballot as provided in subsection (2).

14 (2)(c) If the election judges find that an absentee ballot  
15 does not meet the requirements specified in subsection ~~(1)(1)(b)~~, ~~it~~  
16 the ballot must be rejected. The election judges, without opening the  
17 absentee ballot return envelope, shall mark across it the reason for  
18 rejection and a majority of the judges shall sign their initials.  
19 Unopened rejected absentee ballot return envelopes must be handled in  
20 the same manner as provided for rejected ballots in 13-13-243.

21 ~~(3)(2) After opening~~ For an absentee ballot found to be  
22 sufficient under subsection (1)(b), the judges shall open the  
23 absentee ballot return envelope and without opening the secrecy  
24 envelope, ~~they~~ shall place the secrecy envelope in the proper ballot  
25 box. ~~In a primary election, the unvoted ballots must be deposited in~~  
26 ~~the unvoted ballot box without being removed from their enclosure~~  
27 ~~envelopes.~~

28 ~~(4) After opening the absentee ballot return envelope and if~~

1 If the ballot has not been placed in the secrecy envelope, without  
 2 unfolding the ballot or otherwise permitting it to be examined, the  
 3 election judges shall place the ballot in the secrecy envelope and  
 4 place the secrecy envelope in the proper ballot box.

5 (3) In a primary election, the unvoted party ballots must be  
 6 deposited in a ballot box for unvoted ballots without being removed  
 7 from their enclosure envelopes. If a party ballot has not been  
 8 properly enclosed, the election judges shall enclose the ballot in a  
 9 proper envelop and deposit the ballots in the ballot box."

10 {Internal References to 13-13-241:  
 11 x13-13-232 x13-13-232 x13-15-104}

12  
 13 **Section 42.** Section 13-13-244, MCA, is amended to read:

14 **"13-13-244. Opening of return envelopes after deposit.** If an a  
 15 return envelope containing an absentee ballot has been deposited  
 16 unopened in the ballot box and the envelope has not been marked  
 17 rejected, the envelope ~~shall~~ must be opened ~~without a court order and~~  
 18 ~~the ballot cast~~ and processed as provided in 13-15-201."

19 {Internal References to 13-13-244: None.}

20  
 21 **Section 43.** Section 13-14-115, MCA, is amended to read:

22 **"13-14-115. Preparation and distribution of nonpartisan**  
 23 **primary ballots -- determination on conducting a primary.** (1) The  
 24 election administrators shall arrange, prepare, and distribute  
 25 primary ballots for nonpartisan offices, designated "nonpartisan  
 26 primary ballots". The ballots must be arranged ~~as other primary~~  
 27 ~~ballots~~ and prepared as provided in 13-10-209 and be without  
 28 political designation.

1           ~~(2) The number of nonpartisan primary ballots and sample~~  
 2 ~~ballots furnished must be the same as other primary ballots.~~

3           ~~(3)~~ (a) The election administrator of a political subdivision  
 4 may determine that a primary need not be held if:

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

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

11           (b) If the election administrator determines that a primary  
 12 election need not be held pursuant to subsection ~~(3)(a)~~(2)(a), the  
 13 administrator shall give notice to the governing body that no primary  
 14 election will be held.

15           ~~(4)(3)~~ The governing body may require that a primary election  
 16 be held if it passes a resolution not more than 10 days after the  
 17 close of filing by candidates for election, stating that a primary  
 18 election must be held."

19           {Internal References to 13-14-115:  
 20           a13-14-117}

21  
 22           **Section 44.** Section 13-14-116, MCA, is amended to read:

23           **"13-14-116. Counting and canvassing of nonpartisan ballots.**

24 ~~(1) After closing the polls, the election officers shall separately~~  
 25 ~~count, canvass, record, and certify nonpartisan ballots, showing the~~  
 26 ~~number of votes cast for each person, except as provided in~~  
 27 ~~13-15-202.~~

28           ~~(2) Nonpartisan ballots, stubs, and unused ballots must be~~

1 ~~disposed of in the same manner as other ballots, stubs, and unused~~  
2 ~~ballots. Returns must be made as provided by law. Nonpartisan ballots~~  
3 ~~must be counted and canvassed as provided for in chapter 15."~~

4 {*Internal References to 13-14-116: None.*}

5  
6 **Section 45.** Section 13-14-117, MCA, is amended to read:

7 **"13-14-117. Placing names on ballots for general election.** (1)

8 Except as provided in subsection (2), candidates for nomination equal  
9 to twice the number to be elected at the general election who receive  
10 the highest number of votes cast at the primary are the nominees for  
11 the office. If the number of candidates is not more than twice the  
12 number to be elected, then all candidates are nominees for the  
13 office.

14 (2) If, pursuant to 13-14-115~~(3)~~(2), a primary election is not  
15 held, then all candidates who filed for an office are nominees for  
16 the office."

17 {*Internal References to 13-14-117: None.*}

18  
19 **Section 46.** Section 13-14-118, MCA, is amended to read:

20 **"13-14-118. Vacancies among nominees after nomination and**  
21 **before general election.** (1) If after the primary a candidate is not  
22 able to run for the office for any reason, the vacancy shall be  
23 filled by the candidate next in rank in number of votes received in  
24 the primary election.

25 (2) If a vacancy for a nonpartisan nomination cannot be filled  
26 as provided in subsection (1) and the vacancy occurs no later than 75  
27 days before the general election, a 10-day period for accepting  
28 declarations for nomination or statements of candidacy and nominating

1 petitions for the office shall be declared by:

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

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

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

10 (4) If the vacancy occurs later than 75 days before the  
11 general election and no qualified individual is elected to the office  
12 at the general election, the office shall be vacant and shall be  
13 filled as provided by law."

14 {*Internal References to 13-14-118: None.*}

15

16 **Section 47.** Section 13-14-212, MCA, is amended to read:

17 **"13-14-212. Form of ballot on retention of certain incumbent**  
18 **judicial officers.** ~~In the event~~ If there is no candidate other than  
19 the incumbent for the office of chief justice, supreme court justice,  
20 district court judge, or justice of the peace, the name of the  
21 incumbent shall be placed on the official ballot for the general  
22 election as follows:

23 Shall (insert title of officer) (insert name of the incumbent  
24 officer) of the (insert title of the court) of the state of Montana  
25 be retained in office for another term?

26

27 ~~— [ ] —~~ YES

28

1  ~~[ ] NO~~

2

3  ~~(Mark an "x" before the word "YES" if you wish the official to~~  
 4  ~~remain in office. Mark an "x" before the word "NO" if you do not wish~~  
 5  ~~the official to remain in office.) Following the question, provisions~~  
 6  ~~must be made for a voter to indicate a "yes" or "no" vote subject to~~  
 7  ~~13-12-202."~~

8 {Internal References to 13-14-212:  
 9 x13-14-213}

10

11 **Section 48.** Section 13-15-101, MCA, is amended to read:

12 **"13-15-101. Votes to be publicly counted ~~upon closing of polls~~**  
 13 **~~-- return forms.~~** (1) ~~When the polls are closed, the election judges~~  
 14 ~~shall immediately count the votes. The Any official vote count shall~~  
 15 must be public and continue without adjournment until completed and  
 16 the result is publicly declared.

17 (2) Immediately after all the ballots are counted by precinct,  
 18 the election judges shall copy the total votes cast for each  
 19 candidate and for and against each proposition on the return forms  
 20 furnished by the election administrator.

21 (3) The election judges shall immediately post one of the  
 22 return forms at the place of counting and return a copy to the  
 23 election administrator. Both forms shall be signed by all the  
 24 election judges completing the count."

25 {Internal References to 13-15-101:  
 26 x13-15-205}

27

28 **Section 49.** Section 13-15-103, MCA, is amended to read:

29 **"13-15-103. Counting board procedures.** (1) After ballots have



1 been prepared under 13-15-201, the election administrator may arrange  
2 for the vote counts to begin prior to the close of the polls or  
3 immediately upon the closure of the polls as prescribed in this  
4 section.

5 (2) In any precinct where a counting board has been appointed  
6 in addition to the regular board of election judges, Wherever a count  
7 is conducted after the polls have closed:

8 (a) the counting board shall meet at a place designated by the  
9 election administrator.

10 (2) The election administrator may provide duplicate boxes for  
11 voted ballots and duplicate pollbooks at any precinct for which a  
12 counting board has been appointed and may arrange for the counting  
13 board to begin the count of the votes cast before the polls close.  
14 The counting board shall

15 (b) the board must be sequestered in a separate room from  
16 where the ballots are being cast until after the polls close. Any  
17 individual observing the counting board procedures must be  
18 sequestered with the board until after the polls close. The counting  
19 board shall proceed by counting all ballots in the first box and then  
20 that box and pollbook shall be exchanged for the second box and  
21 duplicate pollbook. The until the count is complete;

22 (c) the board shall continue counting until the votes cast for  
23 all candidates and issues are counted. The  
24 election administrator may appoint an extra election judge to  
25 act as a marshal to be responsible for exchanging ballot boxes and  
26 pollbooks and enforcing sequestering of the board and observers; and

27 (d) votes must be counted as prescribed under [section 2].

28 (3) The election administrator may have the counting board for

1 ~~a precinct begin work as soon as the polls close instead of using the~~  
2 ~~procedure outlined in subsection (2).~~

3 ~~(4) In a county where voting devices are used, Wherever votes~~  
4 ~~are counted prior to the close of the polls:~~

5 ~~(a) the election administrator ~~may~~ shall make provisions for~~  
6 ~~the delivery of voted ballots to the counting center at any time~~  
7 ~~prior to the closing of the polls. ~~The;~~~~

8 ~~(b) the board must be sequestered in a room separate from the~~  
9 ~~room where ballots are being cast;~~

10 ~~(c) anyone observing the count must be sequestered with the~~  
11 ~~board until the polls close;~~

12 ~~(d) the ballots may be processed and counted as they are~~  
13 ~~received, ~~but the results of this early count may not be released to~~~~  
14 ~~~~the public until after all the polls are closed.;~~~~

15 ~~(5) ~~No~~ (e) an election judge or other individual having~~  
16 ~~access to ~~the information~~ early count results may not disclose ~~any~~~~  
17 ~~~~results of early counting~~ that information to the public while the~~  
18 ~~polls are open; and~~

19 ~~(f) votes must be counted as prescribed in [section 2].~~

20 ~~(4) (a) When votes are being counted prior to the close of the~~  
21 ~~polls, in addition to the official oath taken and subscribed to by~~  
22 ~~the election judges, the members of the counting board shall complete~~  
23 ~~and sign the following affirmation: "I, . . . . , will not discuss or~~  
24 ~~disclose or allow anyone else to discuss or disclose to anyone the~~  
25 ~~results of the early counting of votes while the polls are open."~~

26 ~~(b) The chief election judge shall witness and sign the~~  
27 ~~affirmation under (4)(a)."~~

28 {Internal References to 13-15-103:

1 a13-15-104 a13-19-312}

2

3 **Section 50.** Section 13-15-104, MCA, is amended to read:

4 **"13-15-104. Counting board for absentee ballots.** (1) The  
5 election administrator shall:

6 (a) give special instructions to any counting board for  
7 absentee ballots appointed under ~~13-4-101~~ [section 1] on the proper  
8 procedures for counting the absentee ballots; and

9 (b) provide the forms and supplies necessary for the board to  
10 perform its duties.

11 (2) The counting board for absentee ballots shall:

12 (a) be sequestered in a room separate from where ballots are  
13 being cast;

14 (b) at any time prior to the closing of the polls but not  
15 before the polls open, start the count of the absentee votes cast;  
16 and

17 (c) follow the procedures outlined in 13-13-241 and 13-15-103  
18 for the counting of the votes cast.

19 (3) ~~No~~ An election judge or other individual having access to  
20 any results of early counting may not disclose the information while  
21 the polls are open, and ~~he~~ must remain sequestered until the closing  
22 of the polls.

23 (4) ~~(a) In addition to the official oath taken and subscribed~~  
24 ~~to by the election judges, the members of the counting board for~~  
25 ~~absentee ballots shall complete and sign the following affirmation:~~  
26 ~~"I, . . . . , will not discuss or disclose or allow anyone else to~~  
27 ~~discuss or disclose to anyone the results of the early counting of~~  
28 ~~votes while the polls are open."~~

1 ~~(b) The chief election judge shall witness and sign the~~  
 2 ~~affirmation Take the oath and sign the affirmation specified in 13-~~  
 3 ~~15-104(4)."~~

4 {Internal References to 13-15-104:  
 5 a13-15-105}

6  
 7 **Section 51.** Section 13-15-105, MCA, is amended to read:

8 **"13-15-105. Notices relating to counting board for absentee**  
 9 **ballots.** (1) Whenever a counting board for absentee ballots is  
 10 appointed under ~~13-4-101~~ [section 1], the election administrator  
 11 shall:

12 ~~(1)~~(a) publish in the contracted newspaper of the county as  
 13 provided in 7-5-2411 a notice indicating that such a method will be  
 14 used for counting absentee ballots; and

15 ~~(2)~~(b) post in a conspicuous location at the office of the  
 16 election administrator, by 5 p.m. of the day before an election, a  
 17 notice that indicates the place and time the counting board for  
 18 absentee ballots will meet on election day.

19 ~~(2) The~~ If the count will be begin while the polls are still  
 20 open, the notice required under subsection (1) must inform the public  
 21 that any person observing the procedures of the counting board must  
 22 be sequestered with the board until the polls are closed and the  
 23 counting board is released and must take the oath provided in  
 24 ~~13-15-104~~ 13-15-103(4)."

25 {Internal References to 13-15-105: None.}

26  
 27 **Section 52.** Section 13-15-201, MCA, is amended to read:

28 **"13-15-201. Preparation for count.** (1)(a) ~~To begin the~~ Subject

1 to 13-10-311, to prepare for a manual or automatic count of paper  
2 ballots before or after the close of the polls, the counting board  
3 of election judges designated under [section 1] shall take ballots  
4 out of the box unopened to determine whether each ballot is single.  
5 ~~The election judges~~

6 (b) If an absentee ballot counting board has been appointed  
7 pursuant to [section 1], the absentee ballots must be delivered to  
8 the absentee ballot counting board and counted as provided in 13-15-  
9 104. If an absentee ballot counting board has not been appointed, the  
10 regular counting board shall, subject to 13-13-244, remove each  
11 absentee ballot secrecy envelope and open it to determine whether the  
12 ballot for each election is single. ~~A ballot~~ An absentee ballot must  
13 be rejected if in the envelope there is more than one voted ballot  
14 for each election.

15 ~~(2) They~~ (c) The counting board shall count the all ballots to  
16 ensure that the total number of ballots corresponds with the total  
17 number of names on the pollbook.

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

24 ~~(4)(e)~~ A ballot that is not ~~endorsed by the~~ marked as official  
25 ~~stamp~~ is void and may not be counted unless all the judges on the  
26 board agree that the stamp is missing because of ~~their~~ an error. The  
27 ballot must be marked "unstamped by error" on the back and must be  
28 initialed by all judges on the board.

1           ~~(5)(f)~~ If two or more ballots are folded or stuck together to  
 2 look like a single ballot, they must be laid aside until the count is  
 3 complete. The ~~election judges board~~ shall compare the count with the  
 4 pollbooks, and if a majority believes that the ballots folded  
 5 together were voted by one elector, ~~they~~ the ballots must be  
 6 rejected; otherwise they must be counted.

7           (2) For non-paper ballots, the counting board must prepare for  
 8 the official count in a manner prescribed by the secretary of state  
 9 pursuant to [section 3]."

10 {Internal References to 13-15-201:  
 11 a13-10-311           a13-15-202}

12  
 13           **Section 53.** Section 13-16-201, MCA, is amended to read:

14           **"13-16-201. Conditions under which recount to be made.** (1) A  
 15 recount ~~shall~~ must be made ~~under any of the following conditions~~ if:

16           ~~(1)(a)~~ ~~If~~ a candidate for a county, municipal, or district  
 17 office voted for in only one county, other than a legislator or a  
 18 judge of the district court, or a precinct office is defeated by a  
 19 margin not exceeding 1/4 of 1% of the total votes cast or by a margin  
 20 not exceeding 10 votes, whichever is greater, ~~he may~~ and the defeated  
 21 candidate, within 5 days after the official canvass, ~~file~~ files with  
 22 the election administrator a verified petition stating ~~he~~ the  
 23 candidate believes a recount will change the result and that a  
 24 recount of the votes for the office or nomination should be ~~had~~  
 25 conducted.

26           ~~(2)(b)~~ ~~If~~ a candidate for a congressional office, a state or  
 27 district office voted on in more than one county, the legislature, or  
 28 judge of the district court is defeated by a margin not exceeding 1/4

1 of 1% of the total votes cast for all candidates for the same  
2 position, ~~he may~~ and the defeated candidate, within 5 days after the  
3 official canvass, ~~file~~ files a petition with the secretary of state  
4 as set forth in subsection ~~(1)~~(1)(a). The secretary of state shall  
5 immediately notify by certified or registered mail each election  
6 administrator whose county includes any precincts which voted for the  
7 ~~same office by certified or registered mail~~, and a recount shall be  
8 conducted in those precincts.

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

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

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

1 must be filed within 5 days after the official canvass.

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

4 ~~(6) The (2) When a recount is required under subsections~~  
5 ~~(1)(b) through (1)(e), the secretary of state shall immediately~~  
6 ~~notify each affected election administrator by certified mail of the~~  
7 ~~filing of the petition, and a recount shall be conducted in all~~  
8 ~~precincts in each affected county.~~

9 ~~(7) If during a canvass of election returns a board of county~~  
10 ~~canvassers finds an error, as provided in 13-15-403, the board~~  
11 ~~immediately may file a petition with the election administrator."~~

12 {Internal References to 13-16-201:  
13 a13-15-403 x13-16-204 x13-16-205}

14  
15 **Section 54.** Section 13-16-411, MCA, is amended to read:

16 **"13-16-411. Individuals entitled to appear at recount --**  
17 **~~opening and recount of ballots~~ recount procedure.** (1) Representatives  
18 of the news media may be present at the recount. The recount ~~shall~~  
19 must be public, but the audience may be limited to prevent  
20 interference with the procedures.

21 (2) Each candidate involved in a recount may appear,  
22 personally or by representative, and shall have full opportunity to  
23 witness the ~~opening of all ballot boxes and the count of all ballots~~  
24 entire recount process.

25 (3) If the recount is ~~upon~~ on a ballot issue, one qualified  
26 elector favoring each side of the question may be present ~~and~~  
27 ~~represent his side.~~

28 ~~(4) The recount shall proceed as provided in 13-16-412 and as~~



1 ~~expeditiously as possible until completed."~~

2 {Internal References to 13-16-411: None.}

3

4 **Section 55.** Section 13-16-412, MCA, is amended to read:

5 **"13-16-412. Procedure for recounting ~~paper~~ ballots.** ~~The county~~  
6 ~~recount board in recounting the ballots shall count, at the same~~  
7 ~~time, the votes cast in the precincts in which a recount is ordered~~  
8 ~~for the several candidates in whose behalf a recount is ordered in~~  
9 ~~the following manner:~~

10 (1) ~~The~~ To provide for a recount of paper ballots:

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

16 ~~(2) A~~ (b) a member of the county recount board shall open  
17 each sealed package or envelope and remove the ballots and the board  
18 shall count the votes on each ballot as provided in [section 2(2)];  
19 and~~.~~

20 ~~(3) One of the members of the board shall read each ballot~~  
21 ~~aloud. As the ballots are read, two clerks shall write the votes cast~~  
22 ~~for each individual in each precinct, at full length,~~

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

27 (2) To prepare for a recount of ballots cast using a voting  
28 system that is not paper-based, the election administrator and

1 election judges shall proceed as provided pursuant to [section 3] and  
 2 the recount board shall conduct the recount as provided in [section  
 3 2(3)]."

4 {Internal References to 13-16-412:  
 5 a13-16-411 r13-16-413 a13-16-414}

6  
 7 **Section 56.** Section 13-16-414, MCA, is amended to read:

8 **"13-16-414. Recount of votes cast by voting devices systems.**

9 (1) ~~The (a) Before a voting system may recount ballots, the recount~~  
 10 board shall test the automatic tabulating equipment ~~used for votes~~  
 11 ~~cast by voting devices~~ as provided in rules adopted under [section  
 12 3].

13 (b) If the test does not show any errors, the votes cast for  
 14 the candidates or on the issues for which a recount is ordered shall  
 15 be recounted by the tabulating equipment as provided in [section  
 16 2(3)].

17 ~~(2)(c)(i)~~ If any errors are found in the test or if any  
 18 questions remain as to the accuracy of the ~~count~~ voting system, the  
 19 board ~~may~~ shall have the ~~program and equipment~~ system checked by a  
 20 qualified individual who did not participate in the original  
 21 preparation of the ~~program and equipment~~ system.

22 (ii) If the errors are corrected, the recount shall proceed as  
 23 provided in [section 2(3)].

24 (iii) If the errors are not corrected, the recount must be  
 25 conducted as provided in subsection (3).

26 ~~(3)(2)~~ The board may ~~also order manual counting of the votes~~  
 27 ~~cast~~ a recount under subsection (3) if ~~they believe it~~ the board  
 28 unanimously agrees a recount is necessary to resolve all questions

1 relating to the election.

2 ~~(4) The board may remove the seals from any voting device and~~  
3 ~~check the ballot on the device with the official certification of the~~  
4 ~~ballot arrangement for each precinct.~~

5 ~~(5) Any paper ballots voted in a precinct shall be recounted~~  
6 ~~as prescribed in 13-16-412.~~

7 ~~(6) Write-in votes shall be recounted in the same manner as~~  
8 ~~the count is made after the closing of the polls.~~

9 (3)(a) A recount of paper ballots under this subsection (3)  
10 must be conducted manually as provided in [section 2(2)].

11 (b) A recount of ballots cast using a nonpaper-based system  
12 must be conducted as provided in rules adopted under [section 3].

13 {Internal References to 13-16-414: None.}

14  
15 **Section 57.** Section 13-16-417, MCA, is amended to read:

16 **"13-16-417. Sealing ballots, machines, or devices and voting**  
17 **systems.** (1) When the a recount in a precinct of paper ballots has  
18 been finished, each ballot shall again be sealed in the same package  
19 or envelope in the presence of the election administrator and the  
20 county recount board and shall be delivered to the election  
21 administrator for custody.

22 (2) All voting ~~machines or devices from which seals have been~~  
23 ~~removed shall be resealed in the presence of the election~~  
24 ~~administrator and the recount board and shall be delivered to the~~  
25 ~~election administrator for custody systems must be secured as~~  
26 provided in rules adopted under [section 3].

27 (3) All other materials used in the recount that are required  
28 to be sealed shall be resealed in the same manner and delivered to

1 the election administrator for custody."

2 {*Internal References to 13-16-417: None.*}

3  
4 **Section 58.** Section 13-16-420, MCA, is amended to read:

5 **"13-16-420. Misplaced or missing paper ballots.** (1) If during  
6 a recount the county recount board discovers that paper ballots are  
7 misplaced or missing, it may petition the election administrator to  
8 inspect all sealed paper ballots within the county precincts to find  
9 the misplaced or missing ballots. Upon receiving the petition, the  
10 election administrator shall inspect the sealed ballots to find the  
11 misplaced or missing ballots. Upon completion of the recount, the  
12 misplaced or missing ballots must be placed in their proper precinct  
13 and sealed with the remaining ballots."

14 {*Internal References to 13-16-420:*  
15 *a13-15-403*}

16  
17  
18 **Section 59.** Section 13-17-101, MCA, is amended to read:

19 **"13-17-101. Secretary of state ~~to~~ must approve voting machines**  
20 **~~and devices systems.~~** (1) ~~Before any A voting machine or device can~~  
21 ~~system may not~~ be used for any election in this state, unless the  
22 system is approved by the secretary of state as provided in this  
23 section.

24 (2) The secretary of state shall:

25 (a) ~~examine the machine or device~~ any voting system proposed  
26 for use to determine if it complies with the requirements of ~~this~~  
27 ~~chapter 13-17-103;~~

28 (b) within 30 days after examining ~~a machine or device~~ the

1 system, file a report of the examination in ~~his~~ the secretary of  
 2 state's office;

3 (c) include in the report the reasons for the system's  
 4 approval or disapproval ~~of the use of the machine or device~~ and ~~his~~  
 5 the secretary of state's opinion of about the economic and procedural  
 6 impact of the system's use of the machine or device by may have on  
 7 the various classes of counties of this state; and

8 (d) within 5 days after filing the report, transmit to ~~the~~  
 9 each election administrator, including each school election  
 10 administrator for elections under Title 20, chapter 20, of each  
 11 county a copy of the report.

12 (2) Voting ~~machines and devices~~ systems may not be used in an  
 13 election unless approved by the secretary of state 60 days or more  
 14 prior to the election at which they will be used."

15 {Internal References to 13-17-101:  
 16 a13-17-102}

17

18 **Section 60.** Section 13-17-102, MCA, is amended to read:

19 **"13-17-102. Use of qualified technicians and advisors.** (1) ~~The~~  
 20 To the extent funds are available, the secretary of state may employ  
 21 ~~and~~ compensate qualified technicians and advisors ~~who are electors of~~  
 22 ~~this state~~ to assist ~~him~~ in carrying out the secretary of state's  
 23 duties required by 13-17-101. ~~Advisors who are public officers or~~  
 24 ~~employees shall serve without additional compensation other than~~  
 25 ~~expenses of attending the examination if the examination takes place~~  
 26 ~~during their regular working hours.~~

27 (2) ~~The person or company~~ An entity submitting a ~~machine or~~  
 28 ~~device~~ voting system for examination shall pay ~~the compensation and~~

1 ~~expenses of technicians and advisors to the secretary of state~~  
 2 ~~certain costs~~ connected with the examination ~~to the secretary of~~  
 3 ~~state for deposit in the state general fund. The secretary of state~~  
 4 ~~and the person or company shall reach agreement on the number of~~  
 5 ~~technicians and advisors to be compensated before the examination is~~  
 6 ~~held based on an agreement reached between the secretary of state and~~  
 7 ~~the entity proposing the system."~~

8 {Internal References to 13-17-102: None.}

9  
 10 **Section 61.** Section 13-17-103, MCA, is amended to read:

11 **"13-17-103. Required specifications for equipment voting**  
 12 **systems.** (1) A voting machine or device system may not be approved  
 13 under 13-17-101 unless the system:

14 (1)(a) provides that an elector can vote in secrecy;

15 (2)(b) ~~an elector is prevented from voting~~ disallows or  
 16 prevents more than one valid vote by an elector for any candidate or  
 17 upon any ballot issue ~~more than once and is also prevented from;~~

18 (c) disallows or prevents an elector from voting on any office  
 19 or ballot issue for which ~~he~~ the elector is not entitled to vote;

20 (3) (d) ~~an elector can secretly select the party for which he~~  
 21 ~~wishes to vote in a primary election and the machine or device will~~  
 22 ~~count only~~ allows an elector to ~~votes~~ vote only for the candidates a  
 23 candidate of that ~~the~~ party selected by the elector in the primary  
 24 election;

25 (4)(e) allows an elector ~~can~~ to vote a split ticket in a  
 26 general election if ~~he~~ the elector desires;

27 (5)(f) allows every valid vote cast ~~is~~ to be registered and  
 28 recorded within the performance standard adopted under subsection

1 (2);

2 ~~(6)(g) the machine or device is constructed so that it cannot~~  
 3 ~~be tampered with for a fraudulent purpose and is also constructed so~~  
 4 ~~that may be protected from tampering for a fraudulent purpose;~~

5 ~~(h) disallows or prevents an during the progress of the voting~~  
 6 ~~no individual can see or know from seeing or knowing the number of~~  
 7 ~~votes registered for any candidate or on any ballot issue during the~~  
 8 ~~progress of the voting;~~

9 ~~(7)(i) it allows write-in voting; and~~

10 ~~(8)(j) will, if purchased by a jurisdiction within the state,~~  
 11 ~~be provided with a guarantee to provide that training and assistance~~  
 12 ~~will be provided to election officials is included in each under the~~  
 13 ~~contract for purchase of the ~~machine or device~~ system.~~

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

19 *{Internal References to 13-17-103: None.}*

20

21 **Section 62.** Section 13-17-104, MCA, is amended to read:

22 **"13-17-104. Providing voting machines or devices systems --**  
 23 **payment.** (1) The county governing body may, as practicable, provide  
 24 for the use of any approved voting machines or devices as practicable  
 25 system approved under 13-17-101.

26 (2) Funds for voting ~~machines or devices~~ systems may be  
 27 provided by the same methods available for other capital equipment  
 28 purchases by the county.

1           (3) The governing body of a county may put the question of  
 2 purchasing voting ~~machines or devices~~ systems or the question of  
 3 which type of voting ~~machine or device~~ system to purchase to the  
 4 registered electors of the county by the same method that any other  
 5 question is referred to the electors.

6           (4) A county governing body may, in the manner provided under  
 7 13-17-107, submit a voting system for consideration under 13-17-101."  
 8 {Internal References to 13-17-104: None.}

9  
 10           **Section 63.** Section 13-17-105, MCA, is amended to read:

11           **"13-17-105. Experimental use of ~~machines or devices~~ voting**  
 12 **systems**. The governing body of a county may, without formal adoption  
 13 or purchase of the system, provide for the experimental use in one or  
 14 more precincts at an election of a voting ~~machine or device~~ system  
 15 that has been approved by the secretary of state ~~in one or more~~  
 16 ~~precincts without a formal adoption or purchase of the machine or~~  
 17 ~~device~~ under 13-17-101. ~~Its~~ The system's use at the election is valid  
 18 for all purposes as if the ~~equipment~~ system had been formally adopted  
 19 or purchased by the county."

20 {Internal References to 13-17-105: None.}

21  
 22           **Section 64.** Section 13-17-106, MCA, is amended to read:

23           **"13-17-106. General application of election laws to apply**. All  
 24 laws applicable to elections where voting is not done ~~by machine or~~  
 25 ~~device~~ using a voting system and all penalties prescribed for  
 26 violations of those laws apply to elections and precincts where  
 27 voting ~~machines or devices~~ systems are used if ~~they~~ those laws are  
 28 not in conflict with the provisions of this chapter."



1 {Internal References to 13-17-106: None.}

2  
3 **Section 65.** Section 13-17-107, MCA, is amended to read:

4 **"13-17-107. Secretary of state to prescribe rules for**  
5 **submitting systems for approval.** ~~(1)~~ The secretary of state may  
6 ~~prescribe~~ shall adopt rules for the submission of voting machines and  
7 devices system for examination and ~~additional requirements for~~  
8 potential approval of machines and devices under 13-17-101.

9 ~~(2) The secretary of state shall prescribe rules for the~~  
10 ~~complete procedures necessary to use each type of voting machine or~~  
11 ~~device now approved for use in this state and for each type of~~  
12 ~~machine or device approved for use under the provisions of this~~  
13 ~~chapter."~~

14 {Internal References to 13-17-107: None.}

15  
16 **Section 66.** Section 13-17-201, MCA, is amended to read:

17 **"13-17-201. Election administrator to instruct election**  
18 **judges.** (1) Before each election in which a voting system is used,  
19 the election administrator shall instruct all election judges in the  
20 use of the machines or devices. He shall give to each election judge  
21 ~~who has received instruction and is fully qualified to conduct an~~  
22 ~~election with the machine a certificate to that effect~~ voting system  
23 as provided in 13-4-203.

24 (2) A chief election judge may not serve in a precinct where a  
25 ~~voting machines or devices are~~ system is used unless ~~he~~ the judge has  
26 received the required instruction, is fully qualified to perform  
27 duties in connection with the ~~machine or device~~ the system, and has  
28 received a certificate to that effect from the election

1 administrator."

2 {Internal References to 13-17-201: None.}

3

4 **Section 67.** Section 13-17-203, MCA, is amended to read:

5 **"13-17-203. Publication of information concerning ~~machines or~~**  
6 **~~devices~~ voting systems.** Not more than 10 or less than 3 days before  
7 an election at which a voting ~~machines or devices~~ system will be  
8 used, the election administrator shall publish on radio or television  
9 as provided in 2-3-105 through 2-3-107 or in a newspaper of general  
10 circulation in the county:

11 (1) a diagram showing the voting ~~machine or device~~ system and  
12 ballot arrangement (in newspaper only);

13 (2) a statement of the locations where voting ~~machines or~~  
14 ~~devices~~ systems are on public exhibition;

15 (3) illustrated instructions on how to vote."

16 {Internal References to 13-17-203: None.}

17

18 **Section 68.** Section 13-17-204, MCA, is amended to read:

19 **"13-17-204. Voting ~~machines or devices~~ systems to be**  
20 **~~exhibited.~~** A voting ~~machine or device~~ system ~~shall~~ must be on  
21 exhibition in the office of the election administrator of ~~counties~~  
22 any county where ~~such equipment~~ the system is used and may be  
23 exhibited at other locations. The election administrator shall  
24 demonstrate the voting ~~machine or device~~ system to any inquiring  
25 elector."

26 {Internal References to 13-17-204: None.}

27

28 **Section 69.** Section 13-17-206, MCA, is amended to read:

1           **"13-17-206. Arrangement of machine voting system ballot.** The  
 2 order and arrangement of ballots to be used with voting ~~machines or~~  
 3 ~~devices~~ systems shall be the same as paper ballots insofar as  
 4 possible and shall be prescribed by the secretary of state ~~before~~  
 5 ~~each election pursuant to 13-12-202.~~"

6        {*Internal References to 13-17-206:*  
 7        *a13-27-502           a13-27-502*}

8  
 9           **Section 70.** Section 13-17-305, MCA, is amended to read:

10          **"13-17-305. Request to use paper ballots.** (1) ~~(a)~~ Where voting  
 11 ~~machines are~~ a voting system that does not use a paper-based ballot  
 12 is used, an elector may request to vote by paper ballot instead of  
 13 using the ~~machine~~ system. The election judges shall provide the  
 14 elector with a paper ballot when requested.

15          ~~(b) Where voting devices are used, the election administrator,~~  
 16 ~~with approval of the governing body of the county if the election~~  
 17 ~~administrator is an appointed official, may provide paper ballots if~~  
 18 ~~the election administrator believes such ballots are necessary.~~  
 19 ~~However, if more than 5% of the electors voting in the last preceding~~  
 20 ~~general election voted using paper ballots, the election~~  
 21 ~~administrator shall provide paper ballots.~~

22          (2) The printing of paper ballots provided pursuant to this  
 23 subsection is an allowable election cost under the provisions of  
 24 13-1-302.

25          ~~(2)(3)~~ Paper ballots shall A paper ballot provided pursuant to  
 26 this section must be cast as provided by law and counted by the  
 27 election judges in the manner provided ~~by law~~ in [section 2].

28          ~~(3) For the purposes of this section, "voting machine" means a~~

1 ~~mechanical apparatus which is used for voting by using levers which~~  
2 ~~provide a tabulating system within the machine."~~

3 {Internal References to 13-17-305:  
4 x13-12-205}

5  
6 **Section 71.** Section 13-17-306, MCA, is amended to read:

7 **"13-17-306. Use of separate paper ballots for voting on**  
8 **certain candidates or issues.** ~~Whenever~~ Subject to 13-12-202, whenever  
9 a voting ~~machine or device~~ system ~~does not allow proper lockout or~~  
10 does not allow adequate space for ~~the~~ all candidates for all offices  
11 or for all ballot issues, separate paper ballots may be used for some  
12 or all offices or ballot issues if written authorization is given to  
13 the election administrator by the secretary of state."

14 {Internal References to 13-17-306: None.}

15  
16 **Section 72.** Section 13-19-106, MCA, is amended to read:

17 **"13-19-106. General requirements for mail ballot election --**  
18 **exception for county building code jurisdiction election.** A mail  
19 ballot election must be conducted substantially as follows:

20 (1) ~~Official~~ Subject to 13-12-202, official mail ballots must  
21 be prepared and all other initial procedures followed as ~~otherwise~~  
22 provided by law, except that mail ballots must be paper ballots and  
23 are not required to have stubs.

24 (2) (a) Except as provided in subsection (2)(b), an official  
25 ballot must be mailed to every qualified elector of the political  
26 subdivision conducting the election.

27 (b) In an election to determine whether to adopt a building  
28 code enforcement program within a county jurisdictional area, as

1 defined in 50-60-101 and designated by a board of county  
2 commissioners pursuant to 50-60-310, an official ballot must be  
3 mailed to every record owner of real property in the county  
4 jurisdictional area.

5 (3) Each return/verification envelope must contain a form  
6 prescribed by the secretary of state for the elector to verify the  
7 accuracy of the elector's address or notify the election  
8 administrator of the elector's correct mailing address and to return  
9 the corrected address with the voted ballot in the manner provided by  
10 13-19-306.

11 (4) The elector shall mark the ballot at home and place it in  
12 a secrecy envelope.

13 (5) The elector shall then place the secrecy envelope  
14 containing the elector's ballot in a return/verification envelope and  
15 shall return it by mailing it or delivering it in person to a place  
16 of deposit designated by the election administrator so that it is  
17 received before a specified time on election day.

18 (6) Once returned, election officials shall first qualify the  
19 submitted ballot by examining the return/verification envelope to  
20 determine whether it is submitted by a qualified elector who has not  
21 previously voted.

22 (7) If the ballot qualifies and is otherwise valid, officials  
23 shall then open the return/verification envelope and remove the  
24 secrecy envelope, which is then voted by depositing it unopened in an  
25 official ballot box.

26 (8) After the close of polls on election day, voted ballots  
27 must be counted and canvassed as ~~otherwise provided by law~~ in chapter  
28 15."

1 {Internal References to 13-19-106:  
2 x13-19-102 x13-19-311}

3  
4 **Section 73.** Section 13-19-309, MCA, is amended to read:

5 **"13-19-309. Disposition of ballots returned by mail.** (1) Upon  
6 receipt of each return/verification envelope, election officials  
7 shall:

8 (a) compare the name with the official register to determine  
9 that the person has not previously voted;

10 (b) verify the signature on the affidavit in the manner  
11 provided by 13-19-310;

12 (c) open the return/verification envelope and retain it as an  
13 official record;

14 (d) remove and examine the secrecy envelope to determine if  
15 the ballot is valid pursuant to 13-19-311;

16 (e) if the ballot is valid, record the name of the elector in  
17 the official register as having voted; and

18 (f) deposit the unopened secrecy envelope containing the  
19 ballot in the official ballot box.

20 (2) If at any point there is a question concerning ~~a~~ the  
21 validity of a particular ballot, ~~the election administrator may not~~  
22 ~~deposit the ballot in question. The election administrator shall~~  
23 ~~retain all materials relating to the questioned ballot until the~~  
24 ~~question is~~ must be resolved ~~satisfactorily or the question is~~  
25 ~~determined~~ as provided in 13-19-314."

26 {Internal References to 13-19-309: None.}

27  
28 **Section 74.** Section 13-19-312, MCA, is amended to read:

1           "**13-19-312. Procedure at close of voting Counting procedure.**

2       (1) ~~After~~ Except as provided in subsection (2), after the close of  
3       voting on election day, ~~election officials~~ the counting board  
4       appointed pursuant to [section 1] shall:

5           (a) open the official ballot boxes;

6           (b) open each secrecy envelope, removing the ballot; and

7           (c) proceed to count the votes as ~~otherwise provided by law~~  
8       pursuant to chapter 15.

9       (2) On election day, the election administrator may begin the  
10       procedures described in subsection (1) before the polls close if ~~he~~  
11       the election administrator complies with the procedures described in  
12       13-15-103(3)."

13       {*Internal References to 13-19-312: None.*}

14  
15       **Section 75.** Section 13-19-314, MCA, is amended to read:

16       "**13-19-314. Resolving issues ballots in question.** Any  
17       questions concerning the validity of a ballot or signature must be  
18       resolved in the following manner:

19       (1) If the election administrator is unable to ~~resolve the~~  
20       ~~issue to his satisfaction~~ determine whether a ballot is valid, he the  
21       administrator shall give notice to the elector as provided in  
22       13-19-313.

23       (2) ~~If the elector fails to appear or, if even after such an~~  
24       ~~appearance, the issue is still not resolved to,~~ subsequent to  
25       following the procedure in 13-19-313, the election administrator's  
26       ~~satisfaction, the administrator is still unable to determine whether~~  
27       the ballot is valid, the election administrator shall present the  
28       ~~issue~~ ballot for a determination to the board of judges appointed

1 pursuant to [section 1] to count the ballots.

2 (3) If a majority of the counting board is unable to ~~resolve~~  
3 ~~the issue to its satisfaction~~ determine whether the ballot is valid  
4 or invalid, it may not count the ballot in question. ~~Instead, and~~ the  
5 election administrator shall present the ~~issue~~ the ballot to the  
6 board of canvassers for a determination ~~of the issue~~.

7 (4) If a majority of the board of canvassers is unable to  
8 ~~resolve the issue~~ determine whether the ballot is valid, the ballot  
9 ~~must~~ may not be counted."

10 {Internal References to 13-19-314:  
11 a13-19-309}

12

13 **Section 76.** Section 13-25-101, MCA, is amended to read:

14 **"13-25-101. Nomination of electors -- ballot.** (1) Each  
15 political party qualified under 13-10-601 shall nominate presidential  
16 electors for this state and file certificates of nomination for these  
17 candidates with the secretary of state in a form prescribed by the  
18 secretary of state no later than 76 days before the general election,  
19 in the manner and number provided by law. However, in the event of  
20 the death of a candidate for president or vice president, a new  
21 candidate for president or vice president, or both, may be nominated  
22 for the affected political party and certificates of election may be  
23 filed with the secretary of state less than 76 days before a general  
24 election.

25 (2) The secretary of state shall certify to the election  
26 administrator the names of the candidates for president and vice  
27 president of the several political parties, which must be placed on  
28 the ballot by one of the methods provided in 13-12-204. If the name



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

7 (3) The names of candidates for electors of president and vice  
8 president may not ~~be printed upon~~ appear on the ballot."

9 {Internal References to 13-25-101:  
10 x13-10-504 x13-12-202}

11

12 **Section 77.** Section 13-27-501, MCA, is amended to read:

13 **"13-27-501. Secretary of state to certify ballot form --**  
14 **abbreviated ballot.** (1) The secretary of state shall furnish to the  
15 official of each county responsible for preparation ~~and printing~~ of  
16 the ballots, at the same time as ~~he~~ the election administrator  
17 certifies the names of the persons who are candidates for offices to  
18 be filled at the election, a certified copy of the form in which each  
19 ballot issue to be voted on by the people at that election is to  
20 appear on the ballot.

21 (2) Except as provided in subsection (4), the secretary of  
22 state shall list for each issue:

23 (a) the number;

24 (b) the method of placement on the ballot;

25 (c) the title;

26 (d) the attorney general's explanatory statement if  
27 applicable;

28 (e) the fiscal statement if applicable; and

1 (f) the statements of the implication of a vote for or against  
2 the issue that are to be placed beside the diagram for marking the  
3 ballot.

4 (3) When required to do so, the secretary of state shall use  
5 for each ballot issue the title of the legislative act or legislative  
6 constitutional proposal or the title provided by the attorney general  
7 or district court. Following the number of the ballot issue, the  
8 secretary of state, when required to do so, shall include one of the  
9 following statements to identify why the issue has been placed on the  
10 ballot:

11 (a) an act referred by the legislature;

12 (b) an amendment to the constitution proposed by the  
13 legislature;

14 (c) an act of the legislature referred by referendum petition;  
15 or

16 (d) a law or constitutional amendment proposed by initiative  
17 petition.

18 (4) The county election administrator may, at least 14 days  
19 prior to the deadline for ballot certification by the secretary of  
20 state, request in writing that he be furnished an abbreviated form of  
21 the certified ballot. The secretary of state shall furnish to all  
22 counties from which he has received such a request a certified ballot  
23 containing only the information in subsections (2)(a), (2)(e), and  
24 (2)(f). If the county election administrator requests that the  
25 abbreviated ballot be prepared, copies of the information contained  
26 in subsections (2)(a) through (2)(f) must be distributed to each  
27 elector by an election judge as the elector enters the polling  
28 place."

1 {Internal References to 13-27-501: None.}

2  
3 **Section 78.** Section 13-27-502, MCA, is amended to read:

4 **"13-27-502. Preparation of ballots by ~~county officials with~~**  
5 **ballot issues.** (1) Each of the county officials responsible for the  
6 preparation ~~and printing~~ of the ballots shall ~~print~~ provide for the  
7 ballot issues to appear on the official ballot in the form and order  
8 in which the issues have been certified by the secretary of state.

9 (2) All ballot issues shall be placed on the same official  
10 ballot ~~prescribed by 13-12-207, 13-12-212, and 13-17-206~~ as the  
11 ballot for candidates unless specific written approval by the  
12 secretary of state for placing the ballot issues on a separate ballot  
13 is received by the official responsible for ~~printing~~ preparing the  
14 ballot. The secretary of state may issue such approval only when the  
15 number of issues to be voted on at an election makes it impractical  
16 to ~~print~~ prepare the entire ballot, including the ballot issues, on  
17 the official ballot ~~as prescribed by 13-12-207, 13-12-212, and~~  
18 ~~13-17-206~~ with candidates."

19 {Internal References to 13-27-502: None.}

20  
21 **Section 79.** Section 13-35-202, MCA, is amended to read:

22 **"13-35-202. Conduct of election officials and election judges.**  
23 An election officer or judge of an election may not:

24 (1) deposit in a ballot box a paper ballot ~~on which the~~ that  
25 is not marked official ~~stamp~~, as provided by law, ~~does not appear;~~

26 (2) prior to putting ~~the~~ a paper ballot of an elector in ~~the~~ a  
27 ballot box, attempt to find out any name on the ballot or ~~open or~~  
28 examine the ~~folded~~ ballot of an elector;

- 1 (3) look at any mark made by the elector upon the ballot;
- 2 (4) make or place any mark or device on any ~~folded~~ ballot with
- 3 the intent to ascertain how the elector has voted;
- 4 (5) allow any individual other than the elector to be present
- 5 at the marking of the ballot except as provided in 13-13-118 and
- 6 13-13-119; or
- 7 (6) make a false statement in a certificate regarding
- 8 affirmation."

9 {Internal References to 13-35-202:  
10 x13-13-113 x13-13-311}

11

12 **Section 80.** Section 13-35-205, MCA, is amended to read:

13 **"13-35-205. Tampering with election records and information.** A

14 person is guilty of tampering with public records or information and

15 is punishable as provided in 45-7-208 whenever the person:

- 16 (1) suppresses any declaration or certificate of nomination
- 17 which has been filed;
- 18 (2) purposely causes ~~the a~~ vote ~~on a machine~~ to be incorrectly
- 19 recorded as to the candidate or ballot issue voted on;
- 20 (3) in an election return, knowingly adds to or subtracts from
- 21 the votes actually cast at the election;
- 22 (4) changes any ballot after ~~the same~~ it has been ~~deposited in~~
- 23 ~~the ballot box~~ completed by the elector; or
- 24 (5) adds ~~any~~ a ballot to those legally polled at an election,
- 25 either before or after the ballots have been counted, with the
- 26 purpose of changing the result of the election;
- 27 ~~(5)~~(6) causes ~~any~~ a name to be placed on the registry lists
- 28 other than in the manner provided by this title; or

1           ~~(6)~~(7) changes a poll list or checklist."

2       {Internal References to 13-35-205: None.}

3  
4           **Section 81.** Section 13-35-206, MCA, is amended to read:

5           **"13-35-206. Injury to election equipment, materials, and**  
6 **records.** A person is guilty of criminal mischief or tampering with  
7 public records and information, as appropriate, and is punishable as  
8 provided in 45-6-101 or 45-7-208, as applicable, whenever the person:

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

12           (2) during an election:

13           (a) removes or defaces ~~the cards printed for the instruction~~  
14 ~~of~~ instructions for the voters; or

15           (b) removes or destroys any of the supplies or other  
16 conveniences placed in the ~~booths or compartments~~ voting station for  
17 the purpose of enabling a voter to prepare ~~his~~ the voter's ballot;

18           (3) removes any ballots from the polling place before the  
19 closing of the polls with the purpose of changing the result of the  
20 election;

21           (4) carries away or destroys any poll lists, checklists,  
22 ballots, ~~or~~ ballot boxes, or other equipment for the purpose of  
23 disrupting or invalidating an election;

24           (5) knowingly detains, mutilates, alters, or destroys any  
25 election returns;

26           (6) mutilates, secretes, destroys, or alters election records,  
27 except as provided by law;

28           (7) tampers with, disarranges, defaces, injures, or impairs a

1 voting ~~machine~~ system with the intent to alter the outcome of an  
 2 election;

3 (8) mutilates, injures, or destroys any ballot or appliance or  
 4 program used in connection with a voting ~~machine~~ system; or

5 (9) fraudulently defaces or destroys a declaration or  
 6 certificate of nomination."

7 {Internal References to 13-35-206:  
 8 x13-13-113}

9

10 **Section 82.** Section 13-37-126, MCA, is amended to read:

11 "**13-37-126. Names not to be printed appear on ballot.** (1) The  
 12 name of a candidate may not ~~be printed~~ appear on the official ballot  
 13 for an election if the candidate or a treasurer for a candidate fails  
 14 to file any statement or report as required by this chapter.

15 (2) A vacancy on an official ballot under this section may be  
 16 filled in the manner provided by law, but not by the name of the same  
 17 candidate.

18 (3) In carrying out the mandate of this section, the  
 19 commissioner shall, by a written statement, notify the secretary of  
 20 state or the election administrator that a candidate or a candidate's  
 21 treasurer has not complied with the provisions of this chapter, as  
 22 described in subsection (1), and that a candidate's name should not  
 23 ~~be printed~~ appear on the official ballot. The commissioner shall  
 24 provide this notification by the ballot certification deadline  
 25 provided in 13-10-208 for primary elections and by no later than 7  
 26 days before the ballot certification deadline provided in 13-12-201  
 27 for general elections."

28 {Internal References to 13-37-126:  
 29 x13-10-204 x13-10-208 x13-10-208 x13-12-201

1 x13-12-201}

2  
3 **Section 83.** Section 13-37-250, MCA, is amended to read:

4 **"13-37-250. Voluntary spending limits.** (1) (a) The following  
5 statement may be used in printed matter and in broadcast  
6 advertisements and may appear in the voter information pamphlet  
7 prepared by the secretary of state: "According to the Office of the  
8 Commissioner of Political Practices, ..... is in compliance with  
9 the voluntary expenditure limits established under Montana law."

10 (b) The treasurer of each political committee, as defined in  
11 13-1-101(~~18~~)(b), who files a certification on a ballot issue pursuant  
12 to 13-37-201 may also file with the commissioner a sworn statement  
13 that the committee will not exceed the voluntary expenditure limits  
14 of this section. If a sworn statement is made, it must be filed with  
15 the commissioner within 30 days of the certification of the political  
16 committee.

17 (c) A political committee that has not filed a sworn statement  
18 with the commissioner may not distribute any printed matter or pay  
19 for any broadcast claiming to be in compliance with the voluntary  
20 expenditure limits of this section.

21 (d) A political committee may not use evidence of compliance  
22 with the voluntary expenditure limits of this section to imply to the  
23 public that the committee has received endorsement or approval by the  
24 state of Montana.

25 (2) For the purposes of this section, the expenditures made by  
26 a political committee consist of the aggregate total of the following  
27 during the calendar year:

28 (a) all committee loans or expenditures made by check or cash;

1 and

2 (b) the dollar value of all in-kind contributions made or  
3 received by the committee.

4 (3) In order to be identified as a political committee in  
5 compliance with the voluntary expenditure limits of this section, the  
6 committee's expenditures, as described in subsection (2), may not  
7 exceed \$150,000.

8 (4) A political committee that files with the commissioner a  
9 sworn statement to abide by the voluntary expenditure limits of this  
10 section but that exceeds those limits shall pay a fine of \$5,000 to  
11 the commissioner. This money must be deposited in a separate fund to  
12 be used to support the enforcement programs of the office of the  
13 commissioner."

14 {Internal References to 13-37-250: None.}

15

16 **Section 84.** Section 13-38-201, MCA, is amended to read:

17 **"13-38-201. Election of committeemen at primary.** (1) Each  
18 political party shall elect at each primary election one man and one  
19 woman who shall serve as ~~committeemen~~ committee persons for each  
20 election precinct. The ~~committeemen shall~~ committee persons must be  
21 residents and registered voters of the precinct.

22 (2) An elector may be placed in nomination for committeeman by  
23 a writing so stating, signed by the elector, notarized, and filed in  
24 the office of the registrar within the time for filing declarations  
25 naming candidates for nomination at the regular biennial primary  
26 election.

27 (3) The names of candidates for precinct ~~committeeman~~  
28 committee persons of each political party shall ~~be printed~~ appear on



1 the party ticket in the same manner as other candidates and the voter  
2 shall vote for them in the same manner as ~~he does~~ the elector votes  
3 for other candidates."

4 {Internal References to 13-38-201: None.}

5  
6 **Section 85.** Section 20-20-421, MCA, is amended to read:

7 **"20-20-421. Voting machines and electronic voting systems.**

8 Whenever a voting machines or electronic voting systems are system,  
9 as defined in 13-1-101, is available to a district, ~~such~~ the voting  
10 ~~devices~~ system may be used for a school election. ~~Any district that~~  
11 ~~uses a~~ if the voting machine or an electronic voting system shall do  
12 ~~so~~ has been approved pursuant to 13-17-101 and the election  
13 administrator complies in accordance with the provisions of chapter  
14 17 of Title 13. In construing the provisions of that chapter, the  
15 "county governing body" and the "election administrator" shall, for  
16 the purposes of this section, be considered to refer to trustees and  
17 "county" shall be considered to refer to district."

18 {Internal References to 20-20-421: None.}

19  
20 **Section 86.** Section 76-15-303, MCA, is amended to read:

21 **"76-15-303. General election -- election by acclamation --**  
22 **appointment.** (1) All qualified electors within the district are  
23 eligible to vote in the election.

24 (2) Except as provided in subsection (5), the candidate or, if  
25 more than one supervisor position is to be filled by the general  
26 election, the candidates who receive the largest number,  
27 respectively, of the votes cast in the election are the elected  
28 supervisors for the district.

1           (3) In the general election, the names of the individuals  
2 nominated must be ~~printed, as provided under~~ arranged on ballots as  
3 prescribed under 13-12-205, ~~upon ballots, with a square before each~~  
4 ~~name and a direction to insert an "X" mark in the square before any~~  
5 ~~three names to indicate the elector's preference.~~

6           (4) The election administrator in each county shall prepare  
7 suitable nonpartisan ballots or place the names of candidates on the  
8 regular general election ballot in the same manner as other  
9 nonpartisan candidates for the election of supervisors. The ballots  
10 must be delivered to the election judges in those precincts that  
11 contain registered electors prior to each general election and each  
12 primary election, if necessary. The election judges and other  
13 election officials in the precincts shall submit the ballots to  
14 qualified electors, conduct the election, and tabulate the results of  
15 the election in the manner provided in Title 13.

16           (5) (a) Except as provided in subsection (5)(b), if the number  
17 of candidates nominated is equal to or less than the number of  
18 positions to be elected, the election administrator shall give notice  
19 that an election will not be held.

20           (b) The governing body may require that an election be held  
21 if, not more than 10 days after the close of filing by candidates,  
22 the governing body passes a resolution to hold an election and  
23 notifies the election administrator.

24           (c) If an election is not held, the governing body shall  
25 declare elected by acclamation the candidate who filed a nominating  
26 petition for the position. If no candidate has filed a nominating  
27 petition for the position, the governing body shall make an  
28 appointment to fill the position. Supervisors taking office pursuant

1 to this subsection serve a term as if elected to the position."

2 {*Internal References to 76-15-303: None.*}

3

4

5

6 **NEW SECTION. Section 87. {standard} Repealer.** Sections 13-4-  
7 103, 13-4-104, 13-4-107, 13-4-202, 13-12-208, 13-12-209, 13-13-221,  
8 13-15-202, 13-16-303, 13-16-413, and 13-17-301, MCA, are repealed.

9 {*Internal References to 13-4-103: None.*

10 *Internal References to 13-4-104: None.*

11 *Internal References to 13-4-107: None.*

12 *Internal References to 13-4-202: None.*

13 *Internal References to 13-12-208: None.*

14 *Internal References to 13-12-209: None.*

15 *Internal References to 13-13-221: a13-13-201 a13-13-229*

16 *Internal References to 13-15-202: a13-13-117 a13-14-116 r13-16-303*

17 *Internal References to 13-16-303: None.*

18 *Internal References to 13-16-413: None.*

19 *Internal References to 13-17-301: None.*}

20

21 **NEW SECTION. Section 88. {standard} Codification instruction.**

22 (1) [Section 1] is intended to be codified as an integral part of  
23 Title 13, chapter 15, part 1, and the provisions of Title 13, chapter  
24 15, part 1, apply to [section 1].

25 (2) [Section 2] is intended to be codified as an integral part  
26 of Title 13, chapter 15, part 2, and the provisions of Title 13,  
27 chapter 15, part 2, apply to [section 1].

28 (3) [Sections 3 and 4] are intended to be codified as an  
29 integral part of Title 13, chapter 17, part 2, and the provisions of  
30 Title 13, chapter 17, part 2, apply to [sections 3 and 4].

31

32

33

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- END -

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