

## SENATE BILL NO. 562

INTRODUCED BY J. KASSMIER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELECTION LAWS TO PROVIDE FOR A TOP TWO PRIMARY FOR CERTAIN OFFICES; REQUIRING THAT THE TWO CANDIDATES WHO RECEIVE THE MOST VOTES IN CERTAIN PRIMARY ELECTIONS ADVANCE TO THE GENERAL ELECTION IRRESPECTIVE OF PARTY AFFILIATION; AMENDING SECTIONS 2-16-615, 3-1-906, 5-2-402, 5-2-403, 5-2-404, 5-2-406, 7-3-313, 7-3-512, 7-3-704, 7-3-1256, 7-4-2106, 7-4-2206, 7-4-2302, 7-4-2310, 7-4-4112, 13-1-101, 13-1-103, 13-1-403, 13-1-502, 13-4-102, 13-10-201, 13-10-202, 13-10-203, 13-10-204, 13-10-208, 13-10-209, 13-10-211, 13-10-301, 13-10-302, 13-10-303, 13-10-325, 13-10-326, 13-10-327, 13-10-405, 13-10-501, 13-10-502, 13-10-505, 13-10-601, 13-10-605, 13-12-201, 13-12-202, 13-12-203, 13-12-205, 13-12-207, 13-13-214, 13-13-225, 13-13-241, 13-14-112, 13-14-113, 13-15-205, 13-15-507, 13-16-211, 13-16-412, 13-16-418, 13-16-419, 13-16-501, 13-17-103, 13-25-201, 13-25-205, 13-27-401, 13-35-106, 13-35-205, 13-35-206, 13-35-207, 13-35-214, 13-35-218, 13-35-221, 13-35-225, 13-35-226, 13-36-101, 13-36-102, 13-36-103, 13-36-104, 13-36-201, 13-36-202, 13-36-203, 13-36-206, 13-36-207, 13-36-209, 13-36-210, 13-36-211, 13-36-212, 13-37-127, 13-37-216, 13-37-234, AND 13-38-101, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

(2) If the secretary of state, county election administrator or other filing official refuses to accept

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

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

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

11 **Section 2.** Section 3-1-906, MCA, is amended to read:

12 **"3-1-906. Senate confirmation -- exception -- nomination in interim -- appointment contingent**  
13 **on vacancy.** (1) (a) Except as provided in subsection (2):

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

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

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

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

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

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

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

2  
3 **Section 3.** Section 5-2-402, MCA, is amended to read:

4 **"5-2-402. Appointment by board of county commissioners -- county central committee role --**  
5 **timeframes.** (1) Except as provided in subsection (5) or as otherwise provided by law, whenever a vacancy  
6 occurs in the legislature, the vacancy must be filled by appointment by the board of county commissioners or, in  
7 the event of a multicounty district, the boards of county commissioners of the counties comprising the district  
8 sitting as one appointing board.

9 (2) (a) Whenever a vacancy as described in 2-16-501 is within a single county, the board of county  
10 commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

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

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

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

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

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

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

23 (iii) The person selected to fill the vacancy is the one who receives the highest number above 50  
24 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than  
25 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons  
26 receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from  
27 the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

28 (c) If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to

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

7 (3) The appointment process to fill a vacancy in the legislature under this section is as follows:

8 (a) Within 7 days of being notified of a vacancy, the secretary of state shall notify the board of  
9 county commissioners and if the vacating legislator marked a party preference on the legislator's most recent  
10 declaration of candidacy, the secretary of state shall notify the state party that is responsible for notifying the  
11 county central committee of the county where the vacating legislator is a resident, if the legislative seat is within  
12 one county, or the boards of county commissioners and the corresponding county central committees if the  
13 legislative seat is in a multicounty district. If the legislator ~~is an independent or belongs to a party for which~~  
14 ~~there is no county central committee~~ did not mark a party preference or marked "independent" as the party  
15 preference on the legislator's most recent declaration of candidacy, the notification of county commissioners  
16 suffices.

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

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

23 (i) after receiving the list of prospective appointees from the county central committee or  
24 committees;

25 (ii) after 45 days have expired after the notification of a vacancy if the county central committee or  
26 committees have not provided a list of prospective appointees; or

27 (iii) after notification of a vacancy if the legislator vacating the seat is an independent.

28 (4) If the legislature is in session, the notification process in subsection (3)(a) must be followed

1 within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in  
2 subsection (3)(c) must take place in 5 days.

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

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

7  
8 **Section 4.** Section 5-2-403, MCA, is amended to read:

9 **"5-2-403. Appointee to be of same political party.** (1) Whenever an appointee's predecessor  
10 ~~served as a member of a political party~~ declared a political party preference on the last declaration of  
11 candidacy, the appointee named under 5-2-402 must be a member of the same political party and must be  
12 selected from a list of three individuals provided:

13 (a) by the county central committee in a district within a single county; or

14 (b) by the county central committees, acting together, in a multicounty district, as described in 5-2-  
15 402.

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

20 (3) The provisions of this section do not apply if the predecessor served as an independent."  
21

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

23 **"5-2-404. Procedure upon failure of one candidate to receive majority vote.** In the event that a  
24 decision cannot be made by the appointing board because of failure of any candidate to receive a majority of  
25 the votes, the final decision may be made by lot from the first and second lists of candidates as provided by 5-  
26 2-403 or from a list of three individuals if the predecessor ~~served as an independent~~ did not declare a party  
27 preference or marked an independent party preference designation on the predecessor's last declaration of  
28 candidacy, in accordance with rules of selection adopted by the appointing board."

1

2           **Section 6.** Section 5-2-406, MCA, is amended to read:

3           **"5-2-406. Elections to fill vacancies in senate.** (1) Whenever a vacancy occurs 85 days or more  
4 before the general election held during the second year of the term, an individual must be appointed pursuant  
5 to 5-2-402. The appointment continues until a person is elected to complete the term at the upcoming general  
6 election and is sworn into office. The election procedure to be used to elect the successor is as follows:

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

10           (b) Whenever the vacancy occurs on or after the 85th day prior to the primary election, ~~any political~~  
11 ~~party desiring to enter a candidate in the general election shall select a candidate as provided in 13-10-327 and~~  
12 ~~13-38-204. A political party shall notify the secretary of state of the party nominee. A person desiring to be a~~  
13 ~~candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The petition for~~  
14 ~~an independent candidate must be filed with the secretary of state on or before the 85th day prior to the general~~  
15 ~~election~~ a candidate may enter the race as provided in 13-10-327.

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

19

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

21           **"7-3-313. Selection of commission members.** The commission shall must be:

22           (1) elected at large;

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

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

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

1 apportioned by population, and at large."

2

3 **Section 8.** Section 7-3-512, MCA, is amended to read:

4 **"7-3-512. Selection of commission members.** The commission ~~shall~~ must be:

5 (1) elected at large;

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

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

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

13

14 **Section 9.** Section 7-3-704, MCA, is amended to read:

15 **"7-3-704. Legislative body.** (1) The charter ~~shall~~ must provide for an elected legislative body (called  
16 a commission or council) or ~~shall~~ must provide for a legislative body comprised of all qualified electors. For  
17 elected legislative bodies, the charter ~~shall~~ must specify the number of members ~~thereof~~ of the body, their term  
18 of office, election on a partisan or nonpartisan basis, the grounds for their removal, and the method for filling  
19 vacancies.

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

21 (a) at large;

22 (b) by districts in which candidates must reside and ~~which~~ that are apportioned by population;

23 (c) by a combination of districts, in which candidates must reside and ~~which~~ that are apportioned  
24 by population, and at large; or

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

28

1           **Section 10.** Section 7-3-1256, MCA, is amended to read:

2           **"7-3-1256. Appointive officers not to seek other office.** Any appointive officer or employee of the  
3           municipality who ~~shall become~~ becomes a candidate for ~~nomination or~~ election to any public office shall  
4           immediately forfeit the office or employment held under the municipality."  
5

6           **Section 11.** Section 7-4-2106, MCA, is amended to read:

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

10           (2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or  
11           otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until  
12           the next general election unless otherwise provided in subsection (3) or ~~(4)~~ (5). The procedure to be used to fill  
13           the vacancy is as follows:

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

23           (b) If the former incumbent was independent, nonpartisan, or ~~originally nominated by a party that~~  
24           ~~does not meet the requirements of 13-10-604~~ indicated a party preference on the incumbent's most recent  
25           declaration of candidacy with a party that does not have a county central committee or if the vacancy occurs  
26           from a failure to elect, the remaining commissioners shall invite applications for the vacancy in a notice  
27           published as provided in 13-1-108 and shall accept an application from any person who has lived in the  
28           unrepresented district for at least 2 years immediately preceding the day the vacancy occurs. The remaining



1 commissioners shall appoint one of these applicants to fill the vacancy.

2 (3) Whenever a vacancy occurs prior to August 1 before the general election held during the  
3 second or fourth year of the term, an individual must be elected to complete the term at that general election.

4 The election procedure to be used to elect the successor is as follows:

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

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

14 (4) Whenever a vacancy occurs after the primary election and before the general election because  
15 of the death of a candidate, the candidate receiving the third most votes in the primary must be placed on the  
16 ballot for the general election.

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

20 (5) (6) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the  
21 county compensation board provided for in 7-4-2503 shall, subject to subsection (5)(e) (6)(c) of this section,  
22 appoint enough commissioners to allow for a quorum to be established. The vacancies must be filled in the  
23 order in which the commissioners' terms would have expired.

24 (b) If vacancies occur at different times but, because appointments have not yet been made, a  
25 quorum cannot be established, the county compensation board shall, subject to subsection (5)(e) (6)(c), appoint  
26 enough commissioners to allow for a quorum to be established. The county compensation board shall appoint  
27 each commissioner in the order that the vacancy occurred.

28 (c) (i) A commissioner appointed under this subsection (5) (6) must meet the residency

1 requirement in 7-4-2104(2) and must be from the same district as the commissioner being replaced.

2 (ii) If a commissioner being replaced ~~represented a party eligible for a primary election under 13-~~  
3 ~~10-601~~ marked a party preference on the incumbent's most recent declaration of candidacy, the county central  
4 committee of that party shall, within 30 days of the occurrence of the vacancy, submit to the county  
5 compensation board three names of people who have lived in the unrepresented district for at least 2 years  
6 immediately prior to the occurrence of the vacancy. The county compensation board shall appoint each  
7 commissioner from the list of names provided by the county central committee.

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

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

12 ~~(6)~~ (7) If a member of the board of county commissioners has submitted the member's resignation as  
13 provided in 2-16-502 or if proceedings have begun to remove the member from office under 2-16-501, that  
14 member may not be considered to be a remaining member of the commission as provided in this section and  
15 may not participate in filling the vacancy to be created when the resignation becomes effective."  
16

17 **Section 12.** Section 7-4-2206, MCA, is amended to read:

18 **"7-4-2206. Vacancies -- appointment of interim officer.** (1) For the purposes of this part, "vacancy"  
19 has the same meaning as prescribed in 2-16-501.

20 (2) (a) Vacancies in all county offices, except that of county commissioner, must be filled by  
21 appointment by the board of county commissioners. Except as provided in subsections (3) and ~~(4)~~ (5), the  
22 appointee holds the office, if elective, until the person elected at the next general election is certified pursuant to  
23 13-15-406. If the office is not elective, the appointee serves at the pleasure of the commissioners.

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

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

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

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

(4) Whenever a vacancy occurs after the primary election and before the general election because of the death of a candidate, the candidate receiving the third most votes in the primary must be placed on the ballot for the general election.

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

**Section 13.** Section 7-4-2302, MCA, is amended to read:

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

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

1           **Section 14.** Section 7-4-2310, MCA, is amended to read:

2           **"7-4-2310. Order for consolidation of offices.** (1) In consolidating county offices, the board of  
3 county commissioners shall, not less than 7 days before the date on which declarations ~~for nomination of~~  
4 candidacy may first be filed for any office to be consolidated or not less than 6 months prior to the appointment  
5 to the offices to be consolidated, make and enter an order combining any two or more of the within-named  
6 offices.

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

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

12  
13           **Section 15.** Section 7-4-4112, MCA, is amended to read:

14           **"7-4-4112. Filling of vacancy.** (1) When a vacancy occurs in any elective office, ~~this~~ the position is  
15 considered open and subject to ~~nomination and election at~~ during the next ~~general~~ municipal election cycle in  
16 the same manner as the election of any other person holding the same office, except the term of office is limited  
17 to the unexpired term of the person who originally created the vacancy. Pending an election and qualification,  
18 the council shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the  
19 office until a successor is elected and qualified.

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

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

25  
26           **Section 16.** Section 13-1-101, MCA, is amended to read:

27           **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the  
28 following definitions apply:

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

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

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

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

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

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

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

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

(8) "Candidate" means:

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

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

1 individual will seek nomination or election is known when the:

2 (i) solicitation is made;

3 (ii) contribution is received and retained; or

4 (iii) expenditure is made; or

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

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

8 ~~(9)~~ (10) (a) "Contribution" means:

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

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

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

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

17 (b) The term does not mean:

18 (i) services provided without compensation by individuals volunteering a portion or all of their time  
 19 on behalf of a candidate or political committee;

20 (ii) meals and lodging provided by individuals in their private residences for a candidate or other  
 21 individual;

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

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

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

27 ~~(40)~~ (11) \_\_\_\_\_ "Coordinated", including any variations of the term, means made in

28 cooperation with, in consultation with, at the request of, or with the express prior consent of a candidate or

1 political committee or an agent of a candidate or political committee.

2 ~~(11)~~ (12) \_\_\_\_\_ "De minimis act" means an action, contribution, or expenditure that is so small  
3 that it does not trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or  
4 37, or warrant enforcement as a campaign practices violation under Title 13, chapter 37.

5 ~~(13)~~ \_\_\_\_\_ "Declaration for nomination" means the document filed by a candidate for an office that  
6 requires a partisan primary held under Title 13, chapter 10, part 2, or a nonpartisan primary under Title 13,  
7 chapter 14.

8 ~~(14)~~ \_\_\_\_\_ "Declaration of candidacy" means the document filed by a candidate for an office that requires  
9 a top two primary to be used to narrow the number of candidates for the general election.

10 ~~(42)~~ (15) \_\_\_\_\_ "Disability" means a temporary or permanent mental or physical impairment  
11 such as:

12 (a) impaired vision;

13 (b) impaired hearing;

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

16 (d) impaired mental or physical functioning that makes it difficult for the person to participate in the  
17 process of voting.

18 ~~(43)~~ (16) \_\_\_\_\_ "Election" means a general, special, or primary election held pursuant to the  
19 requirements of state law, regardless of the time or purpose.

20 ~~(14)~~ (17) \_\_\_\_\_ (a) "Election administrator" means, except as provided in subsection (14)  
21 (17)(b), the county clerk and recorder or the individual designated by a county governing body to be responsible  
22 for all election administration duties, except that with regard to school elections not administered by the county,  
23 the term means the school district clerk.

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

27 ~~(45)~~ (18) \_\_\_\_\_ (a) "Election communication" means the following forms of communication to  
28 support or oppose a candidate or ballot issue:

- 1 (i) a paid advertisement broadcast over radio, television, cable, or satellite;
- 2 (ii) paid placement of content on the internet or other electronic communication network;
- 3 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;
- 4 (iv) a mailing; or
- 5 (v) printed materials.
- 6 (b) The term does not mean:
- 7 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to
- 8 vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;
- 9 (ii) a communication that does not support or oppose a candidate or ballot issue;
- 10 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any
- 11 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general
- 12 circulation;
- 13 (iv) a communication by any membership organization or corporation to its members, stockholders,
- 14 or employees;
- 15 (v) a communication not for distribution to the general public by a religious organization exempt
- 16 from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious
- 17 beliefs or practices; or
- 18 (vi) a communication that the commissioner determines by rule is not an election communication.
- 19 ~~(16)~~ (19) \_\_\_\_\_ "Election judge" means a person who is appointed pursuant to Title 13, chapter
- 20 4, part 1, to perform duties as specified by law.
- 21 ~~(17)~~ (20) \_\_\_\_\_ "Election official" means an election administrator, election deputy, or election
- 22 judge.
- 23 ~~(18)~~ (21) \_\_\_\_\_ "Election worker" means an individual designated by an election official to
- 24 perform election support duties.
- 25 ~~(19)~~ (22) \_\_\_\_\_ (a) "Electioneering communication" means a paid communication that is
- 26 publicly distributed by radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail,
- 27 or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election,
- 28 that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in



1 the district voting on the candidate or ballot issue, and that:

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

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

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

6 (b) The term does not mean:

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

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

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

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

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

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

21 ~~(20)~~ (23) \_\_\_\_\_ "Elector" means an individual qualified to vote under state law.

22 ~~(24)~~ (24) \_\_\_\_\_ (a) "Expenditure" means a purchase, payment, distribution, loan, advance,  
23 promise, pledge, or gift of money or anything of value:

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

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

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

1 (b) The term does not mean:

2 (i) services, food, or lodging provided in a manner that they are not contributions under subsection  
3 ~~(9)~~ (10);

4 (ii) except as provided in subsection ~~(21)(a)(ii)~~ (24)(a)(ii), payments by a candidate for personal  
5 travel expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;

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

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

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

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

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

16 ~~(22)~~ (25) \_\_\_\_\_ "Federal election" means an election in even-numbered years in which an  
17 elector may vote for individuals for the office of president of the United States or for the United States congress.

18 ~~(23)~~ (26) \_\_\_\_\_ "General election" means an election that is held for offices that first appear on  
19 a primary election ballot, unless the primary is canceled as authorized by law, and that is held on a date  
20 specified in 13-1-104.

21 ~~(24)~~ (27) \_\_\_\_\_ "Inactive elector" means an individual who failed to respond to confirmation  
22 notices and whose name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

23 ~~(25)~~ (28) \_\_\_\_\_ "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220  
24 or 13-19-313.

25 ~~(26)~~ (29) \_\_\_\_\_ (a) "Incidental committee" means a political committee that is not specifically  
26 organized or operating for the primary purpose of supporting or opposing candidates or ballot issues but that  
27 may incidentally become a political committee by receiving a contribution or making an expenditure.

28 (b) For the purpose of this subsection ~~(26)~~ (29), the primary purpose is determined by the

1 commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the  
 2 statement of purpose or goal of the person or individuals that form the committee.

3 ~~(27)~~ (30) \_\_\_\_\_ "Independent committee" means a political committee organized for the  
 4 primary purpose of receiving contributions and making expenditures that is not controlled either directly or  
 5 indirectly by a candidate and that does not coordinate with a candidate in conjunction with the making of  
 6 expenditures except pursuant to the limits set forth in 13-37-216(1).

7 ~~(28)~~ (31) \_\_\_\_\_ "Independent expenditure" means an expenditure for an election  
 8 communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a  
 9 candidate or ballot issue committee.

10 ~~(29)~~ (32) \_\_\_\_\_ "Individual" means a human being.

11 ~~(30)~~ (33) \_\_\_\_\_ "Legally registered elector" means an individual whose application for voter  
 12 registration was accepted, processed, and verified as provided by law.

13 ~~(34)~~ (34) \_\_\_\_\_ "Mail ballot election" means any election that is conducted under Title 13,  
 14 chapter 19, by mailing ballots to all active electors.

15 ~~(35)~~ \_\_\_\_\_ "Nonpartisan primary" means a primary election that is conducted under Title 13, chapter 14.

16 ~~(36)~~ \_\_\_\_\_ "Partisan primary" means a primary election conducted under Title 13, chapter 10, for local,  
 17 county, legislative, district, presidential preference primary, or political party precinct committee offices.

18 ~~(32)~~ (37) \_\_\_\_\_ "Person" means an individual, corporation, association, firm, partnership,  
 19 cooperative, committee, including a political committee, club, union, or other organization or group of individuals  
 20 or a candidate as defined in subsection (8).

21 ~~(33)~~ (38) \_\_\_\_\_ "Place of deposit" means a location designated by the election administrator  
 22 pursuant to 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

23 ~~(34)~~ (39) \_\_\_\_\_ (a) "Political committee" means a combination of two or more individuals or a  
 24 person other than an individual who receives a contribution or makes an expenditure:

25 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate  
 26 or a petition for nomination;

27 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot  
 28 issue; or

1 (iii) to prepare or disseminate an election communication, an electioneering communication, or an  
 2 independent expenditure.

3 (b) Political committees include ballot issue committees, incidental committees, independent  
 4 committees, and political party committees.

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

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

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

10 ~~(35)~~ (40) \_\_\_\_\_ "Political party committee" means a political committee formed by a political  
 11 party organization and includes all county and city central committees.

12 ~~(36)~~ (41) \_\_\_\_\_ "Political party organization" means a political organization that:

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

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

16 ~~(37)~~ (42) \_\_\_\_\_ "Political subdivision" means a county, consolidated municipal-county  
 17 government, municipality, special purpose district, or any other unit of government, except school districts,  
 18 having authority to hold an election.

19 ~~(38)~~ (43) \_\_\_\_\_ "Polling place election" means an election primarily conducted at polling places  
 20 rather than by mail under the provisions of Title 13, chapter 19.

21 ~~(39)~~ (44) \_\_\_\_\_ "Primary" or "primary election" means an election held on a date specified in  
 22 13-1-107 to:

23 (a) \_\_\_\_\_ nominate candidates using a partisan primary or a nonpartisan primary for offices filled at a  
 24 general election; or

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

26 ~~(40)~~ (45) \_\_\_\_\_ "Provisional ballot" means a ballot cast by an elector whose identity or  
 27 eligibility to vote has not been verified as provided by law.

28 ~~(44)~~ (46) \_\_\_\_\_ "Provisionally registered elector" means an individual whose application for

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

2 (42) (47) \_\_\_\_\_ "Public office" means a state, county, municipal, school, or other district office  
3 that is filled by the people at an election.

4 (43) (48) \_\_\_\_\_ "Random-sample audit" means an audit involving a manual count of ballots  
5 from designated races and ballot issues in precincts selected through a random process as provided in 13-17-  
6 503 and 13-17-510.

7 (44) (49) \_\_\_\_\_ "Registrar" means the county election administrator and any regularly  
8 appointed deputy or assistant election administrator.

9 (45) (50) \_\_\_\_\_ "Regular school election" means the school trustee election provided for in 20-  
10 20-105(1).

11 (46) (51) \_\_\_\_\_ "Religious organization" means a house of worship with the major purpose of  
12 supporting religious activities, including but not limited to a church, mosque, shrine, synagogue, or temple. The  
13 organic documents of the organization must list a formal code of doctrine and discipline, and the organization  
14 must spend the majority of its money on religious activities such as regular religious services, educational  
15 preparation for its ministers, development and support of its ministers, membership development, outreach and  
16 support, and the production and distribution of religious literature developed by the organization.

17 (47) (52) \_\_\_\_\_ "School election" has the meaning provided in 20-1-101.

18 (48) (53) \_\_\_\_\_ "School election filing officer" means the filing officer with whom the  
19 declarations for nomination for school district office were filed or with whom the school ballot issue was filed.

20 (49) (54) \_\_\_\_\_ "School recount board" means the board authorized pursuant to 20-20-420 to  
21 perform recount duties in school elections.

22 (55) \_\_\_\_\_ "Selection to advance" or "selected to advance" means the status given to an individual  
23 authorized by law to advance from a top two primary election and appear on the general election ballot.

24 (50) (56) \_\_\_\_\_ "Signature envelope" means an envelope that contains a secrecy envelope  
25 and ballot and that is designed to:

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

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

1           ~~(54)~~ (57) \_\_\_\_\_ "Special election" means an election held on a day other than the day specified  
 2 for a primary election, general election, or regular school election.

3           ~~(52)~~ (58) \_\_\_\_\_ "Special purpose district" means an area with special boundaries created as  
 4 authorized by law for a specialized and limited purpose.

5           ~~(53)~~ (59) \_\_\_\_\_ "Statewide voter registration list" means the voter registration list established  
 6 and maintained pursuant to 13-2-107 and 13-2-108.

7           ~~(54)~~ (60) \_\_\_\_\_ "Support or oppose", including any variations of the term, means:

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

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

16           ~~(61)~~ \_\_\_\_\_ "Top two primary" means the primary election process to narrow the number of  
 17 candidates for the following offices who, irrespective of political party preference, receive the highest and  
 18 second highest number of votes cast in the race:

19           ~~(a)~~ United States senator;

20           ~~(b)~~ United States representative;

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

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

23           ~~(e)~~ attorney general;

24           ~~(f)~~ state auditor;

25           ~~(g)~~ state superintendent of public instruction;

26           ~~(h)~~ public service commissioners;

27           ~~(i)~~ clerk of the supreme court;

28           ~~(j)~~ state senators;

1           (k) members of the Montana house of representatives; and

2           (l) county commissioners.

3           ~~(55)~~ (62)       "Valid vote" means a vote that has been counted as valid or determined to be valid as  
4 provided in 13-15-206.

5           ~~(56)~~ (63)       "Voted ballot" means a ballot that is:

6           (a)       deposited in the ballot box at a polling place;

7           (b)       received at the election administrator's office; or

8           (c)       returned to a place of deposit.

9           ~~(57)~~ (64)       "Voter interface device" means a voting system that:

10          (a)       is accessible to electors with disabilities;

11          (b)       communicates voting instructions and ballot information to a voter;

12          (c)       allows the voter to select and vote for candidates and issues and to verify and change  
13 selections; and

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

16          ~~(58)~~ (65)       "Voting system" or "system" means any machine, device, technology, or equipment  
17 used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."  
18

19           **Section 17.** Section 13-1-103, MCA, is amended to read:

20           **"13-1-103. Determination of winner.** (1) The individual receiving the highest number of valid votes  
21 for any office at an a general election, a nonpartisan primary, or a partisan primary election is elected or  
22 nominated to that office.

23           (2) The two individuals receiving the highest and second highest number of votes in a top two  
24 primary are selected to advance."  
25

26           **Section 18.** Section 13-1-403, MCA, is amended to read:

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

1 10-201(8) for primary elections and except as provided in subsection (2) for a write-in candidate, the candidate  
2 filing deadline for election to a local government office is no sooner than 145 days and no later than 85 days  
3 before the election.

4 (2) A declaration of intent to be a write-in candidate must be filed with the election administrator by  
5 5 p.m. on the 65th day before the date of the election.

6 (3) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may  
7 not withdraw after the candidate filing deadline provided in subsection (1).

8 (4) Except as provided in subsection (5)(b) and unless otherwise specifically provided by law, if the  
9 number of candidates filing for election is equal to or less than the number of positions to be filled, the election  
10 administrator shall notify the governing body of the local government in writing that the election is not necessary  
11 and the governing body may by resolution cancel the election.

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

14 (b) If an election has been canceled and there are no regular or declared write-in candidates for a  
15 position, the governing body of the local government shall fill the position by appointment. The term of an  
16 appointed member must be the same as if the member were elected."  
17

18 **Section 19.** Section 13-1-502, MCA, is amended to read:

19 **"13-1-502. Deadlines for candidate filing, write-in candidacy, and withdrawal -- election**

20 **cancellation -- election by acclamation.** (1) Consistent with the candidate filing deadline in ~~13-10-201(7)~~ 13-  
21 10-201(8) for primary elections and except as provided in subsection (3) for a write-in candidate, the candidate  
22 filing deadline for election to a special purpose district office is no sooner than 145 days and no later than 85  
23 days before the election.

24 (2) Consistent with the withdrawal deadline in 13-10-325 for primary elections, a candidate may  
25 not withdraw after the candidate filing deadline provided in subsection (1).

26 (3) A declaration of intent to be a write-in candidate must be filed with the election administrator by  
27 5 p.m. on the 65th day before the date of the election.

28 (4) (a) Except as provided in subsection (4)(b), if by the write-in candidate deadline in subsection



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

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

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

(b) Except as otherwise provided by law:

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

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

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

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

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

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

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

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

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

**Section 21.** Section 13-10-201, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 22.** Section 13-10-202, MCA, is amended to read:

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

(1) for offices having an annual salary of \$2,500 or less and candidates for the legislature, \$15;  
(2) for county offices having an annual salary of more than \$2,500, 0.5% of the total annual salary;  
(3) for president, an amount equivalent to the filing fee required for a United States senate candidate;

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

~~(4)~~ (5) for other offices having an annual salary of more than \$2,500, 1% of the total annual salary;

~~(5)~~ (6) for offices in which compensation is paid in fees, \$10;

~~(6)~~ (7) for officers of political parties, presidential electors, and officers who receive no salary or fees,

1 no filing fee is required."

2

3 **Section 23.** Section 13-10-203, MCA, is amended to read:

4 **"13-10-203. Indigent candidates.** If an individual is unable to pay a filing fee, the filing officer shall  
5 accept the following documents in lieu of a filing fee:

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

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

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

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

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

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

20

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

22 **"13-10-204. Write-in nominations.** An individual nominated in a partisan primary or receiving the  
23 highest or second-highest number of votes in a top two primary by having the individual's name written in and  
24 counted as provided in 13-15-206(5) or otherwise placed on the primary ballot and desiring to accept the  
25 nomination or selection to advance may not have the individual's name appear on the general election ballot  
26 unless the individual:

27 (1) if the individual is nominated in a partisan primary, received at least 5% of the total votes cast  
28 for the successful candidate for the same office at the last general election;

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

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

**Section 25.** Section 13-10-208, MCA, is amended to read:

**"13-10-208. Certification of candidate names and ballot issues for ballot -- preparing ballot. (1)**

Ten days after the close of candidate filing under ~~13-10-201 (7)~~ 13-10-201(8) for a primary election, the secretary of state shall certify to the election administrators the names and designations of candidates who have filed with the secretary of state, subject to 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 Title 13, chapter 12, part 2.

(2) On receiving the secretary of state's certification pursuant to subsection (1), the county election administrator shall certify the names and designations of all candidates whose names are entitled to appear on the ballot, subject to 13-37-126, and any ballot issues as shown in the official record of the county election administrator's office and shall have the official ballots prepared in the manner provided in 13-10-209 and Title 13, chapter 12, part 2.

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

**Section 26.** Section 13-10-209, MCA, is amended to read:

**"13-10-209. Arrangement and preparing of primary ballots. (1)–(a)** Ballots for a primary election must be arranged and prepared in the same manner and number as provided in chapter 12 for general election ballots, except that:

(i) for a partisan primary, there must be separate ballots for each political party entitled to participate. The name of the political party must appear at the top of the separate ballot for that party and need not appear with each candidate's name.

(ii) (A) in a top two primary, the political party preference declared by the candidate on the

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

8 (B) Information must be printed on the ballot and in the voter information pamphlet provided for in  
9 13-27-401 to inform voters that in the top two primary the two candidates who receive the most votes for the  
10 office will advance to the general election regardless of either candidate's political party preference.

11 (b) Nonpartisan offices, offices in which candidates are selected to advance in a top two primary,  
12 and ballot issues may be prepared on separate ballots or may appear on the same ballot as partisan offices if:

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

14 (ii) the nonpartisan offices, offices in which candidates are selected to advance in a top two  
15 primary, and ballot issues appear on each party's ballot.

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

18 (a) the party does not have candidates for more than half of the offices to appear on the ballot; and

19 (b) no more than one candidate files for nomination by that party for any of the offices to appear on  
20 the ballot.

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

24 (4) If, pursuant to subsection (2), in a primary election held in an even-numbered year a primary  
25 ballot for a political party is not prepared, the secretary of state shall certify that a primary election is  
26 unnecessary for that party and shall instruct the election administrator to certify the names of the candidates for  
27 that party for the general election ballot only.

28 (5) The separate ballots for each party must have the same appearance. Each set of party ballots

1 must bear the same number. If prepared as a separate ballot, the nonpartisan ballot and the top two primary  
 2 ballot may have a different ~~appearance~~ appearances than the party ballots but must be numbered in the same  
 3 order as the party ballots.

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

7 (7) (a) If a ballot contains both offices in which candidates are nominated through a partisan  
 8 primary and offices in which candidates are selected to advance in a top two primary, the ballot must contain:

9 (i) a clear and conspicuous, segregated area for the elector to mark the political party the elector  
 10 wishes to affiliate with for the purposes of voting in the partisan primary election;

11 (ii) an option for the elector to mark "none of the above" with respect to party affiliation; and

12 (iii) a clear and conspicuous statement that only electors who mark a political party affiliation may  
 13 vote on the partisan primary portion of the ballot.

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

17 ~~(7)~~ (8) Each elector must receive a set of ballots that includes the ~~party~~, partisan primary, top two  
 18 primary, nonpartisan, and ballot issue choices."

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

21 **"13-10-211. Declaration of intent for write-in candidates.** (1) A person seeking to become a write-  
 22 in candidate for an office in any election shall file a declaration of intent. Except for a candidate under 13-38-  
 23 201(4) or a candidate covered under 7-1-205, a candidate may not file for more than one public office. The  
 24 declaration of intent must be filed with the secretary of state or election administrator, depending on where a  
 25 declaration of nomination or declaration of candidacy for the desired office is required to be filed under 13-10-  
 26 201, or with the school district clerk for a school district office. When a county election administrator is  
 27 conducting the election for a school district, the school district clerk or school district office that receives the  
 28 declaration of intent shall notify the county election administrator of the filing. Except as provided in 13-1-403,



1 13-1-503, 20-3-305(3)(b), and subsection (2) of this section, the declaration must be filed no later than 5 p.m.  
2 on the 10th day before the earliest date established under 13-13-205 on which a ballot must be available and  
3 must contain:

4 (a) the candidate's name, including:

5 (i) the candidate's first and last names;

6 (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the  
7 candidate's last name;

8 (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name;

9 and

10 (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last  
11 name;

12 (b) the candidate's mailing address;

13 (c) a statement declaring the candidate's intention to be a write-in candidate;

14 (d) the title of the office sought;

15 (e) the date of the election;

16 (f) the date of the declaration; and

17 (g) the candidate's signature.

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

22 (3) The secretary of state shall notify each election administrator of the names of write-in  
23 candidates who have filed a declaration of intent with the secretary of state. Each election administrator shall  
24 notify the election judges in the county or district of the names of write-in candidates who have filed a  
25 declaration of intent.

26 (4) A properly completed and signed declaration of intent may be provided to the election  
27 administrator or secretary of state:

28 (a) by facsimile transmission;

1 (b) in person;

2 (c) by mail; or

3 (d) by electronic mail.

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

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

9 **Section 28.** Section 13-10-301, MCA, is amended to read:

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

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

19 (3) The elector's ballot must be handled as prescribed in 13-13-117."  
20

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

22 **"13-10-302. Write-in votes for previously nominated candidates.** (1) Subject to subsection (2), if  
23 an elector casts a write-in vote for a candidate on a ~~primary~~ party ballot in a partisan primary when the  
24 candidate's name also appears or is written in for the same office on another party's ballot, the write-in vote  
25 counts only with respect to the party on whose ballot the write-in vote was cast and the write-in votes, if on  
26 multiple parties' ballots, and the votes cast for the candidate on the other party's ballots may not be added  
27 together.

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

1

2           **Section 30.** Section 13-10-303, MCA, is amended to read:

3           **"13-10-303. Nominations by more than one party.** If an individual is nominated by more than one  
4 party in a partisan primary, the individual shall, not later than 10 days after the election, file written notification  
5 with the secretary of state or election administrator indicating the party under which the individual's name is to  
6 appear upon the ballot for the general election. If the individual fails to notify the proper officers, the individual's  
7 name must appear under the party with whom the declaration for nomination was filed if a declaration was filed.  
8 If an individual did not file a declaration or acceptance of nomination and fails to notify the proper officers, the  
9 individual's name must appear on the ballot without a party designation."

10

11           **Section 31.** Section 13-10-325, MCA, is amended to read:

12           **"13-10-325. Withdrawal from nomination.** (1) (a) A candidate for nomination, a candidate for an  
13 office in which candidates are selected to advance in a top two primary, or a candidate for election to an office  
14 may withdraw from the election by sending a statement of withdrawal to the officer with whom the candidate's  
15 declaration, petition, ~~or~~ acceptance of nomination, or selection to advance was filed. The statement must  
16 contain all information necessary to identify the candidate and the office sought. Unless filed electronically with  
17 the secretary of state, the statement of withdrawal from nomination or selection to advance must be  
18 acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the  
19 filing is made.

20           (b) A candidate may not withdraw after the candidate filing deadline established in ~~13-10-201(7)~~  
21 13-10-201(8).

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

23

24           **Section 32.** Section 13-10-326, MCA, is amended to read:

25           **"13-10-326. Vacancy prior to primary election.** (1) If a candidate for nomination for a partisan office  
26 dies or withdraws before the candidate filing deadline established in ~~13-10-201(7)~~ 13-10-201(8), the affected  
27 political party may appoint someone to replace the candidate by the procedure provided in 13-10-327.

28           (2) Except as provided in subsection (3), if a candidate for nomination for a partisan office dies

1 after the candidate filing deadline established in ~~13-10-201(7)~~ 13-10-201(8), or is disqualified pursuant to 13-  
2 37-126 from having the candidate's name appear on the primary election ballot, the affected political party shall  
3 appoint a candidate after the primary election as provided in 13-10-327 if a candidate for that office for that  
4 party was not nominated at the primary election.

5 (3) A political party may not appoint a candidate for an office if no candidate for nomination by that  
6 party filed for the office before the primary election or if the deadline for certifying candidate names for the ballot  
7 pursuant to 13-10-208 has passed."  
8

9 **Section 33.** Section 13-10-327, MCA, is amended to read:

10 **"13-10-327. Vacancy after primary and prior to general election.** (1) Except as provided in 13-10-  
11 328 for a vacancy in the candidacy of either governor or lieutenant governor caused by the death of a candidate  
12 and in subsection (2) for a candidate selected to advance in a top two primary, if a party candidate dies or  
13 withdraws after the primary and before the general election, or if a candidate is disqualified pursuant to 13-37-  
14 126 from having the candidate's name appear on a general election ballot, the affected political party shall  
15 appoint someone to replace the candidate in one of the following ways:

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

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

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

23 (2) Except as provided in 13-10-328 for a vacancy in the candidacy of either governor or lieutenant  
24 governor caused by the death of a candidate, if a candidate selected to advance in a top two primary marked a  
25 political party preference on the candidate's most recent declaration for nomination filed with the secretary of  
26 state and that candidate dies or withdraws after the primary and before the general election or if the candidate  
27 is disqualified pursuant to 13-37-126 from having the candidate's name appear on a general election ballot, the  
28 affected political party shall appoint someone to replace the candidate in one of the following ways:

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

3           (b) For the office of United States representative, a committee appointed by the county central  
4 committees of all counties in the district shall make the appointment. Procedures for the appointment of the  
5 committee and making the appointment must be provided in party rules.

6           ~~(2)~~ (3) Except as provided in this section, appointments to fill vacancies must be made no later than  
7 76 days before the election. A candidate may not officially withdraw 85 days or less before a general election.  
8 However, if a candidate:

9           (a) for partisan office dies less than 85 days before the general election, the affected political party  
10 shall appoint a candidate within 5 days after being notified of the vacancy. One of the procedures provided in  
11 13-12-204 must be used to place the name of the appointee on the ballot if necessary.

12           (b) for an office for which candidates are selected to advance in a top two primary dies less than  
13 85 days before the general election and the candidate marked a political party preference on the candidate's  
14 most recent declaration for nomination filed with the secretary of state, the affected political party shall appoint  
15 a candidate within 5 days after being notified of the vacancy. One of the procedures provided in 13-12-204  
16 must be used to place the name of the appointee on the ballot if necessary.

17           ~~(3)~~ (4) The appointing committee shall send a certificate to the officer with whom a declaration for  
18 nomination for the office would be filed or to the secretary of state for a declaration of candidacy, with the  
19 information required on a declaration for nomination or declaration of candidacy and the name of the candidate  
20 for whom the appointee is to be substituted. The appointee shall send a signed and acknowledged acceptance  
21 of the appointment and the filing fee for the office.

22           (4) (5) The officer receiving the certificate of appointment, accompanied by a statement of acceptance  
23 and the filing fee, shall certify the name of the appointee for the ballot."  
24

25           **NEW SECTION. Section 34. Top two primary restrictions -- exceptions.** (1) If two or fewer  
26 candidates seek advancement to a general election, those candidates shall immediately advance without  
27 appearing on the primary election ballot.

28           (2) The top two primary may not be used as a process for a political party to nominate or endorse

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

4  
5 **Section 35.** Section 13-10-405, MCA, is amended to read:

6 **"13-10-405. Submission and verification of petition.** Petitions of nomination for the presidential  
7 preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the  
8 election administrator of the county in which the signatures are gathered at least 1 week before the primary  
9 election filing deadline prescribed in ~~13-10-201(7)~~ 13-10-201(8). The election administrator shall verify the  
10 signatures in the manner prescribed in 13-27-303 through 13-27-308 and ~~must~~ shall forward the petitions to the  
11 secretary of state by the filing deadline prescribed in ~~13-10-201(7)~~ 13-10-201(8)."

12  
13 **Section 36.** Section 13-10-501, MCA, is amended to read:

14 **"13-10-501. Petition for nomination by independent candidates or political parties not eligible**  
15 **to participate in partisan primary election.** (1) Except as provided in 13-10-504, nominations for public office  
16 that uses a partisan primary election by an independent candidate or a political party that does not meet the  
17 requirements of 13-10-601 may be made by a petition for nomination.

18 (2) The petition must contain the same information and the oath of the candidate required for a  
19 declaration for nomination.

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

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

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

25  
26 **Section 37.** Section 13-10-502, MCA, is amended to read:

27 **"13-10-502. Signature requirements for petition.** (1) The petition for nomination must be signed by  
28 electors residing within the ~~state and~~ district or political subdivision in which the officer or officers are to be

1 elected. Each signature line must contain spaces for the signature, post-office address, and printed last name  
2 of the signer.

3 (2) The number of signatures must be 5% or more of the total vote cast for the successful  
4 candidate for the same office at the last general election.

5 (3) If the office sought is a new office or the boundaries of the district or political subdivision in  
6 which the election is to be held have changed since the last election for the office, the officer with whom  
7 nominations for the office sought are filed shall determine the number of signatures required for a petition of  
8 nomination for that office."

9  
10 **Section 38.** Section 13-10-505, MCA, is amended to read:

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

15  
16 **Section 39.** Section 13-10-601, MCA, is amended to read:

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

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

27  
28 **Section 40.** Section 13-10-605, MCA, is amended to read:

1           **"13-10-605. Qualifying minor political parties -- reports required.** (1) A person who spends or  
2 receives money to support or oppose an effort to qualify a minor political party for partisan primary elections  
3 using the petitions described in 13-10-606 shall comply with the provisions of Title 13, chapter 37, part 6.

4           (2) For the purposes of this section, "support or oppose" has the meaning as provided in 13-37-  
5 601."

6  
7           **Section 41.** Section 13-12-201, MCA, is amended to read:

8           **"13-12-201. Certification of candidate names and ballot issues for general election ballot.** (1)  
9 Seventy-five days before a general election, the secretary of state shall certify to the election administrators the  
10 name and party, party preference, or other designation of each candidate who filed with the secretary of state  
11 and whose name is entitled to appear on the ballot, subject to 13-37-126, and the ballot issues as shown in the  
12 official records of the secretary of state's office.

13           (2) On certification from the secretary of state's office pursuant to subsection (1), the election  
14 administrator shall certify the name and party, party preference, or other designation of each candidate whose  
15 name is entitled to appear on the ballot, subject to 13-37-126, and the ballot issues as shown in the official  
16 records of the election administrator's office, and shall have the official ballots prepared.

17           (3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana  
18 constitution to seek the office for which the candidate has filed because the candidate has changed residence,  
19 the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-  
20 325."

21  
22           **Section 42.** Section 13-12-202, MCA, is amended to read:

23           **"13-12-202. Ballot form and uniformity.** (1) The secretary of state shall adopt statewide uniform  
24 rules that prescribe the ballot form for each type of ballot used in this state. The rules must conform to the  
25 provisions of this title unless the voting system used clearly requires otherwise. At a minimum, the rules must  
26 address:

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

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



- 1 (c) the size and content of stubs on paper ballots, except as provided in 13-19-106(1);  
 2 (d) how unvoted ballots must be handled;  
 3 (e) how the number of individuals voting and the number of ballots cast must be recorded; and  
 4 (f) the order and arrangement of voting system ballots; and  
 5 (g) the difference in appearance between a party preference designation in a top two primary and  
 6 a party designation in a partisan primary to prevent the possibility of voter confusion.

7 (2) The names of all candidates that appear on the face of a ballot must appear in the same font  
 8 size and style.

9 (3) Notwithstanding 13-19-106(1) and except as provided in 13-3-208, when the stubs are  
 10 detached, it must be impossible to distinguish any one of the ballots from another ballot for the same office or  
 11 issue.

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

15

16 **Section 43.** Section 13-12-203, MCA, is amended to read:

17 **"13-12-203. Appearance of candidate's name and party designation on ballot.** (1) Subject to 13-  
 18 12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates,  
 19 :

20 (a) in partisan elections, candidates' names must appear under the title of the office sought, with  
 21 the name of the party in not more than three words appearing opposite or below the name;

22 (b) (i) in elections for which candidates are selected to advance in a top two primary, the  
 23 candidate's political party preference must appear in not more than three words opposite or below the name;  
 24 and

25 (ii) if the candidate has not declared a political party, the words "no party preference" must appear  
 26 on the ballot with the candidate's name.

27 (2) Subject to 13-12-202, in nonpartisan general elections, the candidates' names must appear  
 28 under the title of the office sought, with no description or designation appearing with the name unless partisan

1 and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must  
2 appear with the word "Nonpartisan".

3 (3) Except as otherwise provided by this section, information about the candidate other than the  
4 candidate's name may not appear on the ballot, including a title, accomplishment, award, or degree."

5  
6 **Section 44.** Section 13-12-205, MCA, is amended to read:

7 **"13-12-205. Arrangement of names -- rotation on ballot.** (1) The candidates' names must be  
8 arranged alphabetically on the ballot according to surnames under the title of the respective offices and rotated  
9 as provided in this section.

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

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

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

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

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

27  
28 **Section 45.** Section 13-12-207, MCA, is amended to read:

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

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

7           (b) United States senator;

8           (c) United States representative;

9           (d) governor and lieutenant governor;

10          (e) secretary of state;

11          (f) attorney general;

12          (g) state auditor;

13          (h) state superintendent of public instruction;

14          (i) public service commissioners;

15          (j) clerk of the supreme court;

16          (k) chief justice of the supreme court;

17          (l) justices of the supreme court;

18          (m) district court judges;

19          (n) state senators;

20          (o) members of the Montana house of representatives.

21          (2) The following order of placement must be observed for county offices:

22          (a) clerk of the district court;

23          (b) county commissioner;

24          (c) county clerk and recorder;

25          (d) sheriff;

26          (e) coroner;

27          (f) county attorney;

28          (g) county superintendent of schools;

- 1           (h)     county auditor;  
2           (i)     public administrator;  
3           (j)     county assessor;  
4           (k)     county treasurer;  
5           (l)     surveyor;  
6           (m)     justice of the peace.

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

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

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

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

17

18           **Section 46.** Section 13-13-214, MCA, is amended to read:

19           **"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector. (1)\_(a)**

20 Except as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail,  
21 postage prepaid, to each legally registered elector and provisionally registered elector from whom the election  
22 administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official  
23 ballots are necessary in a manner that conforms to postal regulations to require the return rather than  
24 forwarding of ballots.

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

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

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

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

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

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

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

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

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

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

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

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

(b) the elector requests a voter information pamphlet."

**Section 47.** Section 13-13-225, MCA, is amended to read:

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

1 13-13-229.

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

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

9

10 **Section 48.** Section 13-13-241, MCA, is amended to read:

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

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

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

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

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

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

1           (3)     In a partisan primary election, if unvoted party ballots are returned by a voter, they must be  
2 separated and handled pursuant to 13-1-303 and 13-12-202.

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

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

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

10          (7)     (a) Except as provided in subsection (8), after receiving an absentee ballot secrecy envelope  
11 and if the validity of the ballot is confirmed pursuant to 13-13-245, then no sooner than 3 business days before  
12 election day, the election official may open the secrecy envelope and place the ballot in the proper, secured  
13 ballot box until tabulation occurs. Automatic tabulation using a vote-counting machine may not begin sooner  
14 than 1 day before election day. Tabulation using a manual count may not begin until election day.

15          (b)     An election official may not conduct the process described in subsection (7)(a) on a Saturday  
16 or a Sunday.

17          (c)     Ballot preparation as described in this subsection (7) is open to the public. Tabulation is open  
18 to the public as provided in 13-15-101.

19          (d)     Access to an electronic system containing early tabulation results is limited to the election  
20 administrator and the election administrator's designee. Results may not be released except as provided in 13-  
21 35-241.

22          (8)     For a county with fewer than 8,000 registered electors or fewer than 5,000 absentee electors at  
23 the close of regular registration, the ballot preparation process described in subsection (7)(a) may not begin  
24 sooner than 1 business day before election day.

25          (9)     The election administrator shall safely and securely keep the absentee ballots in the election  
26 administrator's office until delivered by the election administrator to the election judges.

27          (10)    The secretary of state shall develop administrative rules to establish the process and  
28 procedures to be used during the early preparation of ballots to ensure the security of the ballots and the

1     secrecy of the votes during the early preparation period. The rules must include but are not limited to:

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

6

7             **Section 49.** Section 13-14-112, MCA, is amended to read:

8             **"13-14-112.   Declarations for nomination -- fee -- filing.** (1) Nonpartisan candidates shall file

9     declarations for nomination as required by the primary election laws in a form prescribed by the secretary of

10    state except as provided in 13-14-113. Except for a candidate covered under 7-1-205, a candidate may not file

11    for more than one public office.

12            (2)     Declarations may not indicate political affiliation. The candidate may not state in the declaration

13    any principles or measures that the candidate advocates or any slogans.

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

15    individual seeks.

16            (4)     Declarations must be filed:

17            (a)     in the office of the secretary of state or the appropriate election administrator as provided in 13-

18    10-201; and

19            (b)     within the filing period provided in ~~13-10-201(7)~~ 13-10-201(8) for the office that the individual

20    seeks."

21

22            **Section 50.** Section 13-14-113, MCA, is amended to read:

23            **"13-14-113.   Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for

24    which a salary or fees are not paid shall file with the appropriate official a petition for nomination or a

25    declaration for nomination containing the information and the oath of the candidate required for a declaration of

26    nomination in a form prescribed by the secretary of state.

27            (2)     Petitions for nomination or declarations for nomination must be filed within the filing period

28    provided in ~~13-10-201(7)~~ 13-10-201(8).



(3) Except for a candidate covered under 7-1-205, a candidate may not file for more than one public office."

**Section 51.** Section 13-15-205, MCA, is amended to read:

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

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

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

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

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

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

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

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

**Section 52.** Section 13-15-507, MCA, is amended to read:

**"13-15-507. Declaration, proclamation, and certification of results.** The board shall declare

1 nominated, selected to advance, or elected the individual having the highest number of votes cast for each  
2 office, except as provided in 13-1-103(2) and 13-10-204. The board shall proclaim the adoption or rejection of  
3 ballot issues. Certified copies of the report required in 13-15-506, the declaration of nominated, selected to  
4 advance, or elected individuals, the proclamation of adoption or rejection of ballot issues, and the effective date  
5 of adopted ballot issues ~~shall~~ must be delivered to the governor."

6  
7 **Section 53.** Section 13-16-211, MCA, is amended to read:

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

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

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

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

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

22  
23 **Section 54.** Section 13-16-412, MCA, is amended to read:

24 **"13-16-412. Procedure for recounting paper ballots.** To conduct a recount of paper ballots:

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

28 (2) a member of the recount board shall open each sealed package or envelope and remove the

1 ballots, and the board shall count the votes on each ballot manually in the manner provided in 13-15-206(2),  
2 except that if the office to be recounted is:

3 (a) on a partisan primary election ballot, votes are recounted only on the party ballots that are  
4 subject to the recount; and

5 (b) on a top two primary election ballot, votes are recounted only on the top two primary ballots  
6 that are subject to recount; and

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

10  
11 **Section 55.** Section 13-16-418, MCA, is amended to read:

12 **"13-16-418. Certification after recount.** (1) (a) Immediately after the recount, the county recount  
13 board shall certify the result.

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

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

18 (i) each precinct recounted;

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

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

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

22 (d) When the certificate relates to a recount for a congressional office, a state or district office  
23 voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue  
24 voted on in more than one county, the certificate must be made in duplicate. One copy must be transmitted  
25 immediately to the secretary of state by certified mail.

26 (e) (i) If the recount relates to a county, municipal, or district office voted for in only one county,  
27 other than that of a legislator or a judge of the district court, or a precinct office or a ballot issue voted on in only  
28 one county, the county recount board shall immediately recanvass the returns as corrected by the certificate

1 showing the result of the recount and make a corrected abstract of the votes.

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

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

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

10 (b) The certificate must adequately designate:

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

12 (ii) the position or question involved; and

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

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

19

20 **Section 56.** Section 13-16-419, MCA, is amended to read:

21 **"13-16-419. Recount by board of state canvassers.** (1) When the secretary of state receives  
22 certificates from all county recount boards, the secretary of state shall file them, shall fix a time and place, as  
23 soon as possible, for reconvening the board of state canvassers, and shall notify the members.

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

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

28 (b) If there is a change in the results, the first certificate is void and a new certificate of election,

1 selection to advance, or nomination must be issued in the same manner as the certificate of election or  
2 nomination was previously issued to each candidate elected, selection to advance, or nominated."

3  
4 **Section 57.** Section 13-16-501, MCA, is amended to read:

5 **"13-16-501. Tie vote after recount.** (1) If the recount shows a tie vote for any office and it cannot be  
6 determined who has been nominated or selected to advance by the primary election, the election officer with  
7 whom the candidates' nominating declarations or petitions or declaration of candidacy were filed shall  
8 determine by lot which candidate ~~shall~~ must be nominated or selected to advance. Written notice of the time  
9 and place of the drawing ~~shall~~ must be given to each candidate involved.

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

12  
13 **Section 58.** Section 13-17-103, MCA, is amended to read:

14 **"13-17-103. Required specifications for voting systems.** (1) A voting system may not be approved  
15 under 13-17-101 unless the voting system:

- 16 (a) allows an elector to vote in secrecy;
- 17 (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- 18 (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled  
19 to vote;
- 20 (d) allows an elector to vote only for the candidates of the party selected by the elector in ~~the~~ a  
21 partisan primary election;
- 22 (e) allows an elector to vote a split ticket in a general election if the elector desires;
- 23 (f) allows each valid vote cast to be registered and recorded within the performance standards  
24 adopted pursuant to subsection (3);
- 25 (g) is protected from tampering for a fraudulent purpose;
- 26 (h) prevents an individual from seeing or knowing the number of votes registered for any candidate  
27 or on any ballot issue during the progress of voting;
- 28 (i) allows write-in voting;

(j) will, if purchased by a jurisdiction within the state, be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;

(k) uses a paper ballot that allows votes to be manually counted;

(l) allows auditors to access and monitor any software program while it is running on the system to determine whether the software is running properly;

(m) is certified by the manufacturer to be free of any modems or other unauthorized external communication devices; and

(n) has been tested by a third-party tester before its first use to validate the manufacturer's certification required in subsection (1)(m).

(2) A voter interface device may not be approved for use in this state unless:

(a) the device meets the electronic security standards adopted by the secretary of state;

(b) the device provides accessible voting technology for electors with hearing, vision, speech, or ambulatory impairments;

(c) the device meets all requirements specified in subsection (1);

(d) the device has been made available for demonstration and use by electors with disabilities in at least one public event held by the secretary of state;

(e) disabled electors have been able to participate in the process of determining whether the system meets accessibility standards; and

(f) the device is certified by the manufacturer to be free of any modems or other unauthorized external communication devices.

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

(4) (a) The secretary of state shall adopt rules implementing the provisions of subsection (1)(n) and defining approved third-party testers and the testing process for voting systems.

(b) A county that acquires the new voting system shall cover the cost of the third-party test. A

1 county may conduct additional third-party tests throughout the life of the voting system, and of the voting  
2 systems already in the county's possession and use, at the county's discretion and expense following the rules  
3 adopted by the secretary of state pursuant to subsection (4)(a)."

4  
5 **Section 59.** Section 13-25-201, MCA, is amended to read:

6 **"13-25-201. Election of United States senators and representatives.** (1) United States senators  
7 and representatives shall must be elected at the general election preceding commencement of the term to be  
8 filled.

9 (2) ~~Nominations~~ Selections to advance and elections shall must be as provided by law for governor  
10 and use a top two primary."

11  
12 **Section 60.** Section 13-25-205, MCA, is amended to read:

13 **"13-25-205. Nominations for special election.** (1) When a special election is ordered to fill a  
14 vacancy in the office of United States senator or United States representative, ~~each political party shall choose~~  
15 ~~a candidate according to the rules of the party. Nominations by parties must be made no later than 75 days~~  
16 ~~before the date set for the election~~ a special top two primary election to narrow the number of candidates must  
17 be conducted prior to the special election.

18 (2) ~~Nominating petitions~~ Declarations of candidacy may be filed by ~~independent candidates~~ for the  
19 office up to 5 p.m. of the 75th day before the special top two primary election."

20  
21 **Section 61.** Section 13-27-401, MCA, is amended to read:

22 **"13-27-401. Voter information pamphlet.** (1) The secretary of state shall prepare for printing a voter  
23 information pamphlet containing information relevant to the election, including but not limited to:

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

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

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

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

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

(d) (iv) rebuttal arguments.

(2) The pamphlet must also contain a notice advising the recipient as to where additional copies of the pamphlet may be obtained.

(3) Whenever more than one statewide ballot issue is to be voted on at a single election, the secretary of state may publish a single pamphlet for all of the statewide ballot issues. The secretary of state may arrange the information in the order that seems most appropriate, but the information for all statewide ballot issues in the pamphlet must be presented in the same order.

(4) The secretary of state may prescribe by rule the format and manner of submission of the arguments concerning the statewide ballot issue."

**Section 62.** Section 13-35-106, MCA, is amended to read:

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

(1) a candidate who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office in the state of Montana until final discharge from state supervision;

(2) a campaign treasurer who is convicted of violating any provision of this title, except 13-35-207(9), is ineligible to be a candidate for any public office or to hold the position of campaign treasurer in any campaign in the state of Montana until final discharge from state supervision;

(3) if an elected official or a candidate is adjudicated to have violated any provision of this title, except 13-35-207(9), the individual must be removed from nomination, selection to advance, or office, as the case may be, even though the individual was regularly nominated, selected to advance, or elected."

**Section 63.** Section 13-35-205, MCA, is amended to read:

**"13-35-205. Tampering with election records and information.** A person is guilty of tampering with



1 public records or information and is punishable as provided in 45-7-208 whenever the person:

2 (1) suppresses any declaration or certificate of nomination, declaration of candidacy, or certificate  
3 of selection that has been filed;

4 (2) purposely causes a vote to be incorrectly recorded as to the candidate or ballot issue voted on;

5 (3) in an election return, knowingly adds to or subtracts from the votes actually cast at the election;

6 (4) changes any ballot after it has been completed by the elector;

7 (5) adds a ballot to those legally polled at an election, either before or after the ballots have been  
8 counted, with the purpose of changing the result of the election;

9 (6) causes a name to be placed on the registry lists other than in the manner provided by this title;

10 (7) changes a poll list or checklist;

11 (8) installs a modem or other unauthorized external communication device in a voting system; or

12 (9) employs a modem or other unauthorized external communication device to transmit data to or  
13 from a voting system."

14  
15 **Section 64.** Section 13-35-206, MCA, is amended to read:

16 **"13-35-206. Injury to election equipment, materials, and records.** A person is guilty of criminal  
17 mischief or tampering with public records and information, as appropriate, and is punishable as provided in 45-  
18 6-101 or 45-7-208, as applicable, whenever the person:

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

21 (2) during an election:

22 (a) removes or defaces instructions for the voters; or

23 (b) removes or destroys any of the supplies or other conveniences placed in the voting station for  
24 the purpose of enabling a voter to prepare the voter's ballot;

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

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

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

9 **Section 65.** Section 13-35-207, MCA, is amended to read:

10 **"13-35-207. Deceptive election practices.** A person is guilty of false swearing, unsworn falsification,  
11 or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-202, 45-  
12 7-203, or 45-7-208, as applicable, whenever the person:

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

1

2           **Section 66.** Section 13-35-214, MCA, is amended to read:

3           **"13-35-214. Illegal influence of voters.** A person may not knowingly or purposely, directly or  
4 indirectly, individually or through any other person, for any election, in order to induce any elector to vote or  
5 refrain from voting or to vote for or against any particular candidate, political party ticket, or ballot issue:

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

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

13

14           **Section 67.** Section 13-35-218, MCA, is amended to read:

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

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

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

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

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

28           (4)     A person on election day may not obstruct the doors or entries of any polling place or engage

1 in any solicitation of a voter within the room where votes are being cast or elsewhere in any manner that in any  
2 way interferes with the election process or obstructs the access of voters to or from the polling place."

3  
4 **Section 68.** Section 13-35-221, MCA, is amended to read:

5 **"13-35-221. Improper nominations or candidacies.** (1) A person may not pay or promise valuable  
6 consideration to another, in any manner or form, for the purpose of inducing the other person to be or to refrain  
7 from or to cease being a candidate, and a person may not solicit or receive any payment or promise from  
8 another for that purpose.

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

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

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

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

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

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

24 (b) the person's candidacy for the nomination or selection to advance is not in good faith."  
25

26 **Section 69.** Section 13-35-225, MCA, is amended to read:

27 **"13-35-225. Election materials not to be anonymous -- notice -- penalty.** (1) All election  
28 communications, electioneering communications, and independent expenditures must clearly and

1 conspicuously include the attribution "paid for by" followed by the name and address of the person who made  
2 or financed the expenditure for the communication. The attribution must contain:

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

5 (b) for election communications, electioneering communications, or independent expenditures  
6 financed by a political committee or a joint fundraising committee, the name of the committee, the name of the  
7 committee treasurer, deputy treasurer, secretary, vice chairperson, or chairperson, as designated pursuant to  
8 13-37-201(2)(b), and the address of the committee or the named committee officer; and

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

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

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

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

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

28 (a) file notification of the omission with the commissioner of political practices within 2 business

1 days of the discovery or notification;

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

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

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

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

11 (i) within 2 business days after receiving the notification if the notification occurs more than 7 days  
12 prior to an election; or

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

15 (b) When notifying the candidate or campaign committee under subsection (6)(a), the  
16 commissioner shall include a statement that if the candidate, political committee, or joint fundraising committee  
17 fails to bring the material into compliance as required under this section, the candidate, political committee, or  
18 joint fundraising committee is subject to a civil penalty pursuant to 13-37-128."

19

20 **Section 70.** Section 13-35-226, MCA, is amended to read:

21 **"13-35-226. Unlawful acts of employers and employees.** (1) It is unlawful for any employer, in  
22 paying employees the salary or wages due them, to include with their pay the name of any candidate or any  
23 political mottoes, devices, or arguments containing threats or promises, express or implied, calculated or  
24 intended to influence the political opinions or actions of the employees.

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

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

1 (i) work in the employer's place or establishment will cease, in whole or in part, or will be  
2 continued or increased;  
3 (ii) the employer's place or establishment will be closed; or  
4 (iii) the salaries or wages of the workers or employees will be reduced or increased; or  
5 (b) other threats or promises, express or implied, intended or calculated to influence the political  
6 opinions or actions of the employer's workers or employees.

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

10 (4) A public employee may not solicit support for or opposition to any political committee, the  
11 nomination, selection to advance, or election of any person to public office, or the passage of a ballot issue  
12 while on the job or at the place of employment. However, subject to 2-2-121 and 2-2-122, this section does not  
13 restrict the right of a public employee to perform activities properly incidental to another activity required or  
14 authorized by law or to express personal political views.

15 (5) A person who violates this section is liable in a civil action authorized by 13-37-128, brought by  
16 the commissioner of political practices or a county attorney pursuant to 13-37-124 and 13-37-125."  
17

18 **Section 71.** Section 13-36-101, MCA, is amended to read:

19 **"13-36-101. Grounds for contest of nomination, selection to advance, or election to public**  
20 **office.** An elector may contest the right of any a person to any nomination, selection to advance, or election to  
21 public office for which the elector has the right to vote if the elector believes that:

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

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

25 (3) votes were cast illegally or were counted or canvassed in an erroneous or fraudulent manner."  
26

27 **Section 72.** Section 13-36-102, MCA, is amended to read:

28 **"13-36-102. Time for commencing contest.** (1) Five days or less after a candidate has been

1 certified as nominated or selected to advance, a person wishing to contest the nomination or selection to  
2 advance to any public office shall give notice in writing to the candidate whose nomination or selection to  
3 advance the person intends to contest, briefly stating the cause for the contest. The contestant shall make  
4 application to the district court in the county where the contest is to be had. The judge shall then set the time for  
5 the hearing. The contestant shall serve notice 3 days before the hearing is scheduled. The notice must state  
6 the time and place of the hearing.

7 (2) Any action to contest the right of a candidate to be declared elected to an office or to annul and  
8 set aside the election or to remove from or deprive any person of an office of which the person is the incumbent  
9 for any offense mentioned in this title must, unless a different time is stated, be commenced within 1 year after  
10 the day of election at which the offense was committed."  
11

12 **Section 73.** Section 13-36-103, MCA, is amended to read:

13 **"13-36-103. Court having jurisdiction of proceedings.** An application for filing a statement,  
14 payment of a claim, or correction of an error or false recital in a filed statement or an action or proceeding to  
15 annul and set aside the election of any person declared elected to an office or to remove or deprive any person  
16 of the person's office for an offense mentioned in this title or any petition to excuse any person or candidate in  
17 accordance with the power of the court to excuse, as provided in 13-36-209, must be made or filed in the  
18 district court of the county in which the certificate, declaration, or acceptance of the person's nomination or  
19 selection to advance as a candidate for the office to which the person is declared nominated, selected to  
20 advance, or elected is filed or in which the incumbent resides."  
21

22 **Section 74.** Section 13-36-104, MCA, is amended to read:

23 **"13-36-104. Nomination and selection to advance contests.** In the case of nomination and  
24 selection to advance contests, the judge of the district court shall hear and determine the case and make all  
25 necessary orders for the trial of the case and carrying the judgment into effect. The order of the judge for a  
26 nomination contest must express the will of a majority of the legal voters of the political party, as indicated by  
27 their votes, disregarding technicalities or errors in spelling. The order of the judge for a selection to advance  
28 contest must express the will of a majority of the legal voters, as indicated by their votes, disregarding



1 technicalities or errors in spelling. Each party is entitled to subpoenas. The registrar shall issue a certificate to  
2 the person declared nominated or selected to advance by the court. The certificate is conclusive evidence of  
3 the right of the person to hold the nomination or selection to advance."

4  
5 **Section 75.** Section 13-36-201, MCA, is amended to read:

6 **"13-36-201. Contents of contest petition.** Any petition contesting the right of any person to a  
7 nomination, selection to advance, or election must set forth the name of every person whose election is  
8 contested and the grounds of the contest. The petition may not be amended unless the amendment is  
9 authorized by a court."

10  
11 **Section 76.** Section 13-36-202, MCA, is amended to read:

12 **"13-36-202. Reception of illegal votes -- allegations and evidence.** When the reception of illegal  
13 votes is alleged as a cause of contest, it is sufficient to state generally that in one or more specified voting  
14 precincts illegal votes were given to the candidate whose nomination, selection to advance, or election is  
15 contested that, if taken from the candidate, will reduce the number of the candidate's legal votes below the  
16 number of legal votes given to some other candidate for the same office. Testimony may not be received of any  
17 illegal votes unless the party contesting the election delivers to the opposite party, at least 3 days before trial, a  
18 written list of the number of illegal votes and by whom given that the party intends to prove at trial. This  
19 provision may not prevent the contestant from offering evidence of illegal votes not included in the statement if  
20 the contestant did not know and by reasonable diligence was unable to learn of the additional illegal votes and  
21 by whom they were given before delivering the written list."

22  
23 **Section 77.** Section 13-36-203, MCA, is amended to read:

24 **"13-36-203. Form of complaint.** (1) A petition or complaint filed under the provisions of this chapter  
25 is sufficient if it is in substantially the following form:

26 In the District Court of the

27 .... Judicial District,

28 for the County of...., State of Montana.

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

2 vs.

3 E F, Contestee.

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

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

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

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

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

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

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

20

21 **Section 78.** Section 13-36-206, MCA, is amended to read:

22 **"13-36-206. Notice of filing -- prompt hearing.** On the filing of a petition under this part, the clerk  
23 shall immediately notify the judge of the court and issue a citation to the person whose nomination, selection to  
24 advance, or office is contested, citing the person to appear and answer not less than 3 or more than 7 days  
25 after the date of filing the petition. The court shall hear the cause, and the contest must take precedence over  
26 all other business on the court docket and must be tried and disposed of with all convenient dispatch. The court  
27 is always considered to be in session for the trial of contest cases."

28

1           **Section 79.** Section 13-36-207, MCA, is amended to read:

2           **"13-36-207. Hearing of contest.** The petitioner (contestant) and the contestee may appear and  
3       produce evidence at the hearing, but no person other than the petitioner and contestee may be made a party to  
4       the proceedings on the petition and no person other than the parties and their attorneys may be heard except  
5       by order of the court. If more than one petition is pending or the election of more than one person is contested,  
6       the court may in its discretion order the cases to be heard together and may apportion the costs,  
7       disbursements, and attorney fees between the parties and shall finally determine all questions of law and fact,  
8       except that the judge may impanel a jury to decide on questions of fact. In the case of nominations, selections  
9       to advance, or elections other than for federal congressional offices, the court shall immediately certify its  
10      decision to the governing body or official issuing certificates of nomination, selection to advance, or election and  
11      the governing body or official shall issue certificates of nomination, selection to advance, or election to the  
12      person or persons entitled to the certificates by the court's decision. If judgment of ouster against a defendant is  
13      rendered, the nomination or office must be declared vacant by the judgment, except as provided in 13-36-212,  
14      and must be filled by a new election or by appointment as may be provided by law regarding vacancies in the  
15      nomination, selection to advance, or office."

16  
17           **Section 80.** Section 13-36-209, MCA, is amended to read:

18           **"13-36-209. Forfeiture of nomination, selection to advance, or office for violation of law -- when**  
19      **inappropriate.** Upon the trial of any action or proceeding under the provisions of this title to contest the right of  
20      any person to be declared nominated, selected to advance, or elected to any office or to annul or set aside a  
21      nomination, selection to advance, or election or to remove a person from office, the nomination, selection to  
22      advance, or election of the candidate is not by reason of the offense or omission complained of void and the  
23      candidate may not be removed from or deprived of office if under the circumstances it seems to the court to be  
24      unjust that the candidate forfeit a nomination, selection to advance, or office or be deprived of any office of  
25      which the candidate is the incumbent. The decision of the court must be based upon the following:

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

1 taken by and on behalf of the candidate;

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

4 (3) any act or omission of the candidate arose from inadvertence or from accidental miscalculation  
5 or from some other reasonable cause of a like nature and in any case did not arise from any lack of good faith."  
6

7 **Section 81.** Section 13-36-210, MCA, is amended to read:

8 **"13-36-210. Punishment.** If, upon the trial of any action or proceeding under the provisions of this title  
9 to contest the right of any person to be declared to be nominated or selected to advance to an office or elected  
10 to an office or to annul and set aside the election or to remove any person from office, it appears that the  
11 person was guilty of any corrupt practice, illegal act, or undue influence in or about the nomination, selection to  
12 advance, or election, the person must be punished by being deprived of the nomination, selection to advance,  
13 or office and the vacancy must be filled in the manner provided by law. The only exceptions to this judgment  
14 are those provided in 13-36-209. The judgment does not prevent the candidate or officer from being proceeded  
15 against by indictment or criminal information for any act or acts."  
16

17 **Section 82.** Section 13-36-211, MCA, is amended to read:

18 **"13-36-211. When nomination, selection to advance, or election not to be vacated.** The ground  
19 of contest specified in 13-36-101(3) may not be construed to authorize a nomination, selection to advance, or  
20 election to be set aside on account of illegal votes unless it appears:

21 (1) that the candidate, ~~or~~ nominee, or person selected to advance whose right is contested had  
22 knowledge of or connived in the illegal votes; or

23 (2) that the number of illegal votes given to the person whose right to the nomination, selection to  
24 advance, or office is contested, if taken from the person, would reduce the number of legal votes for the person  
25 below the number of votes given to some other person for the same nomination, selection to advance, or office,  
26 after deducting the illegal votes that may be shown to have been given to the other person."  
27

28 **Section 83.** Section 13-36-212, MCA, is amended to read:

1           **"13-36-212. Declaration of result of election after rejection of illegal votes.** If, in any case of a  
2 contest on the ground of illegal votes, it appears that a person other than the one returned has the highest  
3 number of legal votes after the illegal votes have been eliminated, the court ~~must~~ shall declare ~~such~~ the person  
4 nominated, selected to advance, or elected, as the case may be."

5  
6           **Section 84.** Section 13-37-127, MCA, is amended to read:

7           **"13-37-127. Withholding of certificates of nomination, selection to advance, or election.** (1) A  
8 certificate of election may not be granted to any candidate until the candidate or the candidate's treasurer has  
9 filed the reports and statements that must be filed pursuant to the provisions of this chapter. A candidate for an  
10 elective office may not assume the powers and duties of that office until the candidate has received a certificate  
11 of election as provided by law. A certificate of election may only be issued by the public official responsible for  
12 issuing a certificate or commission of election.

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

17  
18           **Section 85.** Section 13-37-216, MCA, is amended to read:

19           **"13-37-216. Limitations on contributions -- adjustment.** (1) (a) Subject to adjustment as provided  
20 for in subsection (3) and subject to 13-35-227 and 13-37-219, aggregate contributions for each election in a  
21 campaign by a political committee or by an individual, other than the candidate, to a candidate are limited as  
22 follows:

23           (i) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed  
24 \$1,000;

25           (ii) for a candidate to be elected for state office in a statewide election, other than the candidates  
26 for governor and lieutenant governor, not to exceed \$700;

27           (iii) for a candidate for any other public office, not to exceed \$400.

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

1 (i) a contribution to a candidate includes contributions made to any political committee organized  
2 on the candidate's behalf; and

3 (ii) a political committee that is not independent of the candidate is considered to be organized on  
4 the candidate's behalf.

5 (2) All political committees except those of political party organizations are subject to the  
6 provisions of subsection (1). Political party organizations may form political committees that are subject to the  
7 following aggregate limitations, adjusted as provided for in subsection (3) and subject to 13-37-219, from all  
8 political party committees:

9 (a) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed  
10 \$100,000;

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

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

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

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

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

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

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

21 (ii) \$50 increment for the limits established in subsection (2).

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

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

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

27 (a) from the person who originally contributed funds to the joint fundraising committee; and

28 (b) received by the candidate participant to whom the funds were allocated by the joint fundraising

1 committee as provided in 13-37-211.

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

6

7 **Section 86.** Section 13-37-234, MCA, is amended to read:

8 **"13-37-234. Religious organization exemptions to be broadly construed.** Pursuant to the first  
 9 amendment to the United States constitution and to ensure the consistent application of the law, the  
 10 commissioner shall broadly construe the exemptions concerning religious organizations provided in ~~13-1-101~~  
 11 ~~(9)(b)(iv), (15)(b)(v), (19)(b)(v), and (21)(b)(vi)~~ 13-1-101(10)(b)(iv), (18)(b)(v), (22)(b)(v), and (24)(b)(vi)."

12

13 **Section 87.** Section 13-38-101, MCA, is amended to read:

14 **"13-38-101. Powers of parties.** Each political party may:

- 15 (1) make its own rules;
- 16 (2) provide for and select its own offices;
- 17 (3) call conventions and provide for the number and qualification of delegates;
- 18 (4) adopt platforms;
- 19 (5) provide for selection of delegates to national conventions;
- 20 (6) provide for the nomination of presidential electors;
- 21 (7) provide for the selection of national committee representatives; and
- 22 ~~(8) make nominations to fill vacancies occurring among its candidates nominated for offices to be~~  
 23 ~~filled by the state at large or by any district consisting of more than one county where the vacancies are caused~~  
 24 ~~by death, resignation, or removal from the electoral district;~~
- 25 (9) (8) perform all other functions inherent in a party organization."

26

27 **NEW SECTION. Section 88. Codification instruction.** [Section 34] is intended to be codified as a  
 28 new part in Title 13, chapter 10, and the provisions of Title 13, chapter 10, apply to [section 34].

1

2           NEW SECTION. Section 89.   Severability. If a part of [this act] is invalid, all valid parts that are

3 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,

4 the part remains in effect in all valid applications that are severable from the invalid applications.

5

6           NEW SECTION. Section 90.   Effective date. [This act] is effective on passage and approval.

7

- END -