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As of: May 6, 2008 (9:15am)

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**** Bill No. ****

Introduced By *****

By Request of the State Administration and Veterans' Affairs

Interim Committee

A Bill for an Act entitled: "An Act clarifying state election laws to provide for consistent treatment among polling place, absentee, mail, and provisional ballot provisions; eliminating outdated provisions; creating more consistency between the administration of school elections and other elections by requiring training and revising payment for school election judges; and amending."

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

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

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

(1) "Active elector" means an elector ~~who voted in the previous federal general election and whose name is on the active list~~ 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

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utility to the recipient that is real and that is ordinarily not given away free but is purchased.

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

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

(6) "Candidate" means:

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

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

(i) solicitation is made;

(ii) contribution is received and retained; or

(iii) expenditure is made; ~~and~~ or

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

election.

(7) (a) "Contribution" means:

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

(ii) a transfer of funds between political committees;

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

(b) "Contribution" does not mean:

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

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

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

(iv) filing fees paid by the candidate.

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

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

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

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

(b) "Expenditure" does not mean:

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

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

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

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

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

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

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

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

(16) "Individual" means a human being.

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

(b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper

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official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

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

(19) "Mail ballot election" means any election that is conducted under chapter 19 of this title by mailing ballots to all active electors.

~~(19)~~ (20) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

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

~~(20)~~ (22) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

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

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

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(c) as an earmarked contribution.

(23) "Polling place election" means an election primarily conducted at polling places rather than by mail under the provisions of chapter 19 of this title.

~~(21)~~ (24) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

~~(22)~~ (25) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

~~(23)~~ (26) "Provisional ballot" means a ballot cast by an elector whose identity ~~and~~ or eligibility to vote ~~have~~ has not been verified as provided by law.

~~(24)~~ (27) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose identity or eligibility has not yet been verified as provided by law.

~~(25)~~ (28) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

~~(26)~~ (29) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election

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administrator.

~~(27)~~ (30) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

~~(28)~~ (31) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

~~(29)~~ (32) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

~~(30)~~ (33) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in 13-15-206.

(34) "Voted ballot" means a ballot that is:

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

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

(c) returned to a place of deposit.

~~(31)~~ (35) "Voting system" or "system" means any machine, device, technology, or equipment used to automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

{*Internal References to 13-1-101:*

2-2-121 13-27-111 13-37-101 13-37-228
13-37-250 20-20-421 }

Section 2. Section 13-1-108, MCA, is amended to read:

"13-1-108. Notice of special elections. Notice of any

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special election must be published at least three times in the 4 weeks immediately preceding the close of registration on radio or television as provided in 2-3-105 through 2-3-107 or in a newspaper of general circulation in the jurisdiction where the election will be held, using the method the election administrator believes is best suited to reach the largest number of potential voters. The provisions of this section are fulfilled upon the third publication."

{Internal References to 13-1-108:

7-2-4105	7-2-4603	7-2-4903	7-3-1205
7-3-1208	7-4-2106	7-5-4322	7-6-1536
7-7-2229	7-7-4227	7-13-2210	7-13-2324}

Section 3. Section 13-1-113, MCA, is amended to read:

"13-1-113. Only one residence. There can be only one residence for the purposes of this title."

{Internal References to 13-1-113: None.}

Section 4. Section 13-1-115, MCA, is amended to read:

"13-1-115. Privilege from arrest. Electors are privileged from arrest during their attendance at elections and in going to and from voting places and places of deposit, except in cases of treason, felony, or breach of the peace."

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

Section 5. Section 13-2-110, MCA, is amended to read:

"13-2-110. Application for voter registration -- sufficiency and verification of information -- identifiers

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assigned for voting purposes. (1) An individual may apply for voter registration in person or by mail by completing and signing an application for voter registration and providing the application to the election administrator in the county in which the elector resides.

(2) An individual applying by mail shall send the application to the election administrator, postage paid, no later than 15 days after the date it is signed.

(3) Each application for voter registration must be accepted and processed as provided in rules adopted under 13-2-109.

(4) Except as provided in subsection (5):

(a) an applicant for voter registration shall provide the applicant's driver's license number; or

(b) if the applicant does not have a driver's license, the applicant shall provide the last four digits of the applicant's social security number.

(5) (a) If an applicant does not have a driver's license or social security number, the applicant shall provide as an alternative form of identification:

~~— (a) an applicant appearing in person before the election administrator shall provide:~~

(i) a current and valid photo identification, including but not limited to a school district or postsecondary education photo identification or a tribal photo identification, with the individual's name; or

(ii) a current utility bill, bank statement, paycheck,

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government check, or other government document that shows the individual's name and current address.

~~_____ (b) an applicant applying by mail to register shall also enclose a copy of:~~

~~_____ (i) a current and valid photo identification, including but not limited to a school district or postsecondary education photo identification or a tribal photo identification, with the individual's name; or~~

~~_____ (ii) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and current address.~~

(b) The alternative form of identification must be:

(i) an original version presented to the election administrator, if the applicant is applying in person; or

(ii) a copy of any of the required documents that is enclosed with the application, if the person is applying by mail.

(6) (a) If information provided on an application for voter registration is sufficient to be accepted and processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall register the elector as a legally registered elector.

(b) If information provided on an application for voter registration was sufficient to be accepted but the applicant failed to provide the information required in subsection (4) or (5) or if the information provided was incorrect or insufficient to verify the individual's eligibility to vote, the election administrator shall register the applicant as a provisionally

registered elector.

(7) Each applicant for voter registration must be notified of the elector's registration status pursuant to rules adopted under 13-2-109.

(8) The secretary of state shall assign to each elector whose application was accepted a unique identification number for voting purposes and shall establish a statewide uniform method to allow the secretary of state and local election officials to distinguish legally registered electors from provisionally registered electors.

(9) The provisions of this section may not be interpreted to conflict with voter registration accomplished under 13-2-221, 13-21-201, 13-21-203, and 61-5-107 and as provided for in federal law."

{*Internal References to 13-2-110:*
13-2-109 13-2-205}

Section 6. Section 13-2-116, MCA, is amended to read:

"13-2-116. Precinct register. (1) ~~Before each election~~
Except for elections conducted by mail under chapter 19 of this title, the election administrator shall prepare from the certified statewide voter registration list a precinct register for each precinct in the county for use by the election judges. The register may be prepared no sooner than the Friday before each election and must contain an alphabetical list of the names, with addresses, of the legally registered electors and provisionally registered electors, a space for the signature of

the elector, and other information as prescribed by the secretary of state.

(2) If some of the electors in a precinct are not eligible to receive all ballots at an election because of a combination of the elections of more than one political subdivision, the election administrator shall distinguish the names of those eligible for each ballot by whatever method will be clear and efficient.

(3) When several precincts have been combined at one polling place for an election, the election administrator may combine the electors from all precincts into one register or may provide separate registers for each precinct.

(4) Precinct registers need not be printed if the election will not be held."

{*Internal References to 13-2-116: None.x*}

Section 7. Section 13-2-220, MCA, is amended to read:

"13-2-220. Maintenance of active and inactive voter registration lists for elections -- rules by secretary of state.

(1) The rules adopted by the secretary of state under 13-2-108 must include the following procedures, which an election administrator shall follow in every odd-numbered year:

(a) compare the entire list of registered electors against the national change of address files and provide appropriate confirmation notice to those individuals whose addresses have apparently changed;

(b) mail a nonforwardable, first-class, "return if

undeliverable--address correction requested" notice to all registered electors of each jurisdiction to confirm their addresses and provide the appropriate confirmation notice to those individuals who return the notices;

(c) mail a targeted mailing to electors who failed to vote in the preceding federal general election by:

(i) sending the list of nonvoters a nonforwardable notice, followed by the appropriate forwardable confirmation notice to those electors who appear to have moved from their addresses of record;

(ii) comparing the list of nonvoters against the national change of address files, followed by the appropriate confirmation notices to those electors who appear to have moved from their addresses of record;

(iii) sending forwardable confirmation notices; or

(iv) making a door-to-door canvass.

(2) Any notices returned to the election administrator after using the procedures provided in subsection (1) must be followed by an appropriate confirmation notice that is a forwardable, first-class, postage-paid, self-addressed, return notice. If the elector fails to respond within 30 days of the confirmation notice, the election administrator shall move the elector to the inactive list.

(3) A procedure used by an election administrator pursuant to this section must be completed at least 90 days before a primary or general election for federal office.

(4) An elector's registration may be reactivated pursuant to

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13-2-222 or may be canceled pursuant to 13-2-402."

{Internal References to 13-2-220:

13-1-101x 13-1-101x 13-1-101x}

Section 8. Section 13-2-222, MCA, is amended to read:

"13-2-222. Reactivation of elector. (1) The name of an elector must be moved by an election administrator from the inactive list to the active list of a county if an elector meets the requirements for registration provided in this chapter and:

(a) appears at a polling place in order to vote, ~~or~~ votes by absentee ballot in any election, or votes in an election held by mail under chapter 19 of this title;

(b) notifies the county election administrator in writing of the elector's current residence, which must be in that county; or

(c) completes a reactivation form provided by the county election administrator that provides current address information in that county.

(2) After an elector has complied with subsection (1) (a), (1) (b), or (1) (c), the county election administrator shall place the elector's name on the active voting list for that county.

(3) An elector reactivated pursuant to subsection (1) (a) is a legally registered elector for purposes of the election in which the elector voted."

{Internal References to 13-2-222: None.}

Section 9. Section 13-2-301, MCA, is amended to read:

"13-2-301. **Close of regular registration -- notice -- changes.** (1) The election administrator shall:

(a) close regular registrations for 30 days before any election; and

(b) ~~broadcast~~ publish a notice specifying the day regular registrations will close and the availability of the late registration option provided for in 13-2-304 ~~on radio or television as provided in 2-3-105 through 2-3-107~~ ~~or publish the notice~~ in a newspaper of general circulation in the county at least three times in the 4 weeks preceding the close of registration or broadcast a notice on radio or television as provided in 2-3-105 through 2-3-107, using the method the election administrator believes is best suited to reach the largest number of potential voters. The provisions of this subsection (1) (b) are fulfilled upon the third publication or broadcast of the notice.

(2) Information to be included in the notice must be prescribed by the secretary of state.

(3) An application for voter registration properly executed and postmarked on or before the day regular registration is closed must be accepted as a regular registration for 3 days after regular registration is closed under subsection (1) (a).

(4) An individual who submits a completed registration form to the election administrator before the deadlines provided in this section is allowed to correct a mistake on the completed registration form until 5 p.m. on the 10th day following the close of regular registration, and the qualified elector is then

eligible to vote in the election at the polling place for that elector's precinct.

(5) ~~Subject to the provisions of 13-2-304,~~ an An elector who misses the deadlines provided for in this section may register to vote or change the elector's voter information and vote in the election, except as otherwise provided in 13-2-304."

{Internal References to 13-2-301:

13-2-115

13-2-304

13-2-514

13-13-301}

Section 10. Section 13-2-304, MCA, is amended to read:

"13-2-304. Late registration -- late changes -- nonapplicability for school elections. (1) Except as provided in subsections (2) and (3), the following provisions apply:

(a) An elector may register or change the elector's voter registration information after the close of regular registration in 13-2-301 and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of the polls on election day.

(b) Late registration is closed from noon to 5 p.m. on the day before the election.

(c) Except as provided in 13-2-514(2)(a), an elector who registers or changes the elector's voter information pursuant to this section may vote in the election only if the elector ~~votes at the county election administrator's office~~ obtains the ballot from and returns it to the location designated by the county election administrator.

(2) If an elector has already been sent an absentee ballot for the election, the elector may change the elector's voter registration information only with respect to the next election.

(3) The provisions of subsection (1) do not apply with respect to an elector's registration to vote in a school election held pursuant to Title 20."

{*Internal References to 13-2-304:*

13-2-301 13-2-301 13-2-514}

Section 11. Section 13-2-402, MCA, is amended to read:

"13-2-402. Reasons for cancellation. The election administrator shall cancel the registration of an elector if:

- (1) the elector submits a written request for cancellation;
- (2) a certificate of the death of the elector is filed or if the elector is reported to the election administrator as deceased by the department of public health and human services in the department's reports submitted to the county under 50-15-409 or through a newspaper obituary;
- (3) the elector is of unsound mind as established by a court;
- (4) the incarceration of the elector in a penal institution for a felony conviction is legally established;
- (5) a certified copy of a court order directing the cancellation is filed with the election administrator;
- (6) a notice is received from the secretary of state or from another county or state that the elector has registered in another county or state;

(7) the elector:

(a) fails to respond to certain confirmation mailings;

(b) is placed on the inactive list; and

(c) then fails to vote in two consecutive federal general elections; or

(8) the elector fails to meet any voter qualification that is listed in 13-1-111."

{Internal References to 13-2-402:
13-2-512 13-2-512 13-13-301}

Section 12. Section 13-3-205, MCA, is amended to read:

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

~~(2) (a) Standards for polling places approved pursuant to subsection (1) prior to October 1, 2005, must be consistent with the standards for accessibility established by the American national standards institute and the uniform federal accessibility standards.~~

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

(3) The secretary of state:

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

part; and

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

{Internal References to 13-3-205:

13-3-202 13-3-206 13-3-207 13-3-207}

Section 13. Section 13-3-206, MCA, is amended to read:

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

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

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

- (a) the conditions of accessibility change; or
- (b) the initial survey results are inaccurate."

{Internal References to 13-3-206:

13-3-207 13-3-211 13-3-211}

Section 14. Section 13-4-102, MCA, is amended to read:

"13-4-102. Manner of choosing election judges. (1) Subject to 13-4-107, election judges must be chosen from lists of qualified registered electors for each precinct in the county, submitted at least 45 days before the primary election in

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even-numbered years by the county central committees of the political parties eligible to nominate candidates in the primary.

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

(3) Each board of election judges must include judges representing all parties that have submitted lists as provided in subsection (1). No more than the number of election judges needed to obtain a simple majority may be appointed from the list of one political party in each precinct. If any of the political parties entitled to do so fail to submit a list, the governing body shall, insofar as 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, the election administrator may ~~randomly select, either by manual drawing or by computer, sufficient qualified registered electors in the county~~ select enough people meeting the qualifications in 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

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conducted under 13-4-203 and shall continue to serve as provided in 13-4-103."

{Internal References to 13-4-102:
13-4-107 13-13-226}

Section 15. Section 13-4-106, MCA, is amended to read:

"13-4-106. Compensation of judges. (1) Except as provided in subsection (2), election judges must be paid at least ~~the prevailing~~ the state or federal minimum wage, whichever is greater, for the number of hours worked during an election plus the number of hours spent at the instruction session. Mileage may be paid to election judges for attending instruction sessions. Election judges are exempt from unemployment insurance coverage for services performed pursuant to this chapter if the remuneration received by the election judge is less than \$1,000 in the calendar year.

(2) The chief election judge may be paid at a rate higher than the other election judges and may be reimbursed for the actual expenses of transporting election materials.

(3) The election administrator shall certify the amount due each election judge to the county governing body as soon after an election as all records necessary for the certification are received."

{Internal References to 13-4-106:
13-13-228}

Section 16. Section 13-4-202, MCA, is amended to read:

"13-4-202. Administration of oaths. Any election judge may

administer and certify oaths required from electors or election judges during an election."

{*Internal References to 13-4-202: None.*}

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

"13-4-203. Instruction of judges -- training materials. (1)

Before each election, all election judges who do not possess a current certificate of instruction obtained pursuant to 13-1-203(3) must be instructed by the election administrator. In precincts where voting systems are used, instructions must cover both how to operate the voting system and how to manually process any paper ballots.

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

(3) Any individual willing to be appointed as an election judge may attend an instruction session by registering with the election administrator. However, the individual may not be paid for attendance unless the individual is appointed as an election judge.

(4) Each election judge completing a training session under this section must be given a certificate of completion. An individual may not serve as an election judge without a valid certificate obtained under 13-1-203(3) or this section. However, this requirement does not apply to individuals filling vacancies in emergencies.

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(5) All ~~certificates of completion expire 30 days~~ election judges shall obtain a certificate of instruction or be recertified before the primary election in even-numbered years.

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

{*Internal References to 13-4-203:*
13-1-203 13-4-102 13-17-201}

Section 18. Section 13-10-211, MCA, is amended to read:

"13-10-211. Declaration of intent for write-in candidates.

(1) Except as provided in subsection (7), a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. The declaration of intent must be filed with the secretary of state or election administrator, depending on where a declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district clerk for a school district office. When a county election administrator is conducting the election for a school district, the school district clerk or school district office that receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in subsections (2) and (3), the declaration must be filed no later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available for absentee voting for the election and must contain:

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

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

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

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

(b) the candidate's mailing address;

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

(d) the title of the office sought;

(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

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

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

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

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election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

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

_____ (a) ~~sent~~ by facsimile transmission if a facsimile facility is available for ~~use by the election administrator or by the secretary of state,~~ receipt;

_____ (b) delivered in person~~;~~ or

_____ (c) ~~mailed to the election administrator or to the secretary of state~~ by mail.

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

(7) The requirements in subsection (1) do not apply if:

(a) an election is held;

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

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

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

{*Internal References to 13-10-211:*
13-15-206 13-15-206 20-3-313}

Section 19. Section 13-13-204, MCA, is amended to read:

"13-13-204. Authority to vote in person -- printing error or ballot destroyed -- failure to receive ballot -- effect of absentee elector's death. (1) If an elector has ~~voted by~~ received

an absentee ballot but the absentee ballot contains printing errors or omissions, except that the name of a candidate who has died since the printing of the ballot and that appears on the ballot does not constitute an error or omission, the elector may receive a corrected ballot and vote in person in any manner at the elector's polling place at the election administrator's office.

(2) If an elector does not receive an absentee ballot or if the absentee ballot was destroyed, the elector may appear at the appropriate polling place on election day and vote in person after signing an affidavit, in the form prescribed by the secretary of state, swearing that the elector's ballot has not been received or was destroyed. The ballot must be handled as a provisional ballot under 13-15-107.

(3) If an elector votes by absentee ballot and the ballot has been mailed or otherwise returned to the election administrator but the elector dies between the time of balloting and election day, the deceased elector's ballot must be counted."

{Internal References to 13-13-204:
13-15-108}

Section 20. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot -- special provisions. (1) (a) Except as provided in subsection (1)(b), an elector may apply for an absentee ballot by using a standardized form provided by rule by the secretary of state or by making a written request, which must include the applicant's birth date

and must be signed by the applicant. The request must be submitted to the election administrator of the applicant's county of residence within the time period specified in 13-13-211.

(b) A person who holds a power of attorney from an absent uniformed services elector may apply for an absentee ballot for that election on behalf of the uniformed services elector. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

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

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

(c) A request under this subsection (2) must be received by the election administrator within the time period specified in 13-13-211(2).

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

to the election administrator.

(4) (a) ~~When applying for an absentee ballot under this section, an~~ An elector may ~~also~~ at any time request to be mailed an absentee ballot, ~~as soon as the ballot becomes available,~~ for each subsequent election in which the elector is eligible to vote or only for each subsequent federal election in which the elector is eligible to vote for as long as the elector remains qualified to vote and resides at the address provided in the initial application.

(b) The election administrator shall mail ~~an~~ a forwardable address confirmation form in January and July of each year to each elector who has requested an absentee ballot for subsequent elections. The address confirmation form mailed in January is for elections to be held between February 1 following the mailing through July of the same year, and the address confirmation form mailed in July is for elections to be held between August 1 following the mailing through January of the succeeding year. The elector shall sign the form, indicate the address to which the absentee ballot should be sent, and return the form to the election administrator. If the form is not completed and returned, the election administrator shall remove the elector from the register of electors who have requested an absentee ballot for each subsequent election.

(c) An elector who has been removed from the register may subsequently request to be mailed an absentee ballot for each subsequent election."

{*Internal References to 13-13-212:*

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13-13-211 13-13-213 13-13-214 13-13-214
13-13-229 13-21-202 }

Section 21. Section 13-13-213, MCA, is amended to read:

"13-13-213. Transmission of application to election administrator -- delivery of ballot. (1) All absentee ballot application forms must be addressed to the appropriate election official.

(2) Except as provided in subsection (4), the elector may mail the application directly to the election administrator or deliver the application in person to the election administrator. An agent designated pursuant to 13-1-116 or a third party may collect the elector's application and forward it to the election administrator.

(3) (a) The election administrator shall compare the signature on the application with the applicant's signature on the registration card or the agent's signature on the agent designation form. If convinced that the individual making the application is the same as the one whose name appears on the registration card or agent designation form, the election administrator shall deliver the ballot to the elector in person or as otherwise provided in 13-13-214, subject to 13-13-205.

(b) If the election administrator is not convinced that the individual signing the application is the same one whose name appears on the registration card or agent designation form, the election administrator shall notify the elector or agent, either by mail or the most expedient method available under rules

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adopted by the secretary of state, and inform the elector or agent that the elector or agent may verify the signature, after proof of identification, by mail, or in person at the election administrator's office prior to 8 p.m. on election day.

(4) If an election administrator cannot verify the signature, a ballot may not be provided to the elector.

~~(4)~~(5) In lieu of the requirement provided in subsection (2), an elector who requests an absentee ballot pursuant to 13-13-212(2) may return the application to the special absentee election board. Upon receipt of the application, the special absentee election board shall examine the signatures on the application and a copy of the voting registration card or agent designation form to be provided by the election administrator. If the special absentee election board believes that the applicant is the same person as the one whose name appears on the registration card or agent designation form, the special absentee election board shall provide a ballot to the elector, ~~subject~~ when the ballot is available pursuant to 13-13-205."

{*Internal References to 13-13-213:*
13-1-116 13-13-214}

Section 22. Section 13-13-222, MCA, is amended to read:

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

and marking the ballot in a voting station area designated by the election administrator.

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

(3) If the ballot is marked before the election administrator, the election administrator shall deal with it as provided in 13-13-231.

(4) The ballot is considered voted at the time it is received by the election administrator."

{Internal References to 13-13-222:

13-3-213 13-13-211 13-13-233}

Section 23. Section 13-13-241, MCA, is amended to read:

"13-13-241. Examination of absentee ballot return envelopes -- deposit of absentee and unvoted ballots. (1) (a) After an absentee ballot is received, an election administrator shall compare the signature of the elector or elector's agent on the absentee ballot request with the signature on the absentee ballot return envelope.

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

(c) (i) If the elector is provisionally registered and the signature on the return envelope matches the signature on the absentee ballot application, the election administrator or an election judge shall open the outer return envelope and determine

whether the elector's voter identification and eligibility information, if enclosed pursuant to 13-13-201, ~~is~~ are sufficient pursuant to rules adopted under 13-2-109 to legally register the elector.

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

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

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

(3) In a primary election, unvoted party ballots must be separated from the secrecy envelopes and handled without being removed from their enclosure envelopes.

(4) If an elector's ballot is to be handled as a provisional ballot, the election administrator shall notify the absentee elector by mail or by the most expedient method available under rules adopted by the secretary of state that the elector's identification information was insufficient and that the elector's ballot will be treated as a provisional ballot until the elector provides sufficient information, pursuant to rules adopted by the secretary of state. If the elector is notified by mail, the election administrator shall provide a self-addressed return envelope along with a description of the

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information necessary for the absentee elector to reclassify the provisional ballot as a regular ballot.

(5) If the signature on the absentee ballot return envelope does not match the signature on the absentee ballot request form, ~~the absentee ballot must be rejected. The election administrator, without opening the absentee ballot return envelope, shall mark across it the reason for rejection. Unopened rejected absentee ballot return envelopes must be handled in the same manner as provided for rejected ballots in 13-15-108(1).~~ the election administrator shall notify the elector, either by first-class mail or the most expedient method available under rules adopted by the secretary of state, and inform the elector that the elector may verify the signature, after proof of identification, by mail or in person at the election administrator's office prior to 8 p.m. on election day.

(6) The elector may verify the signature by affirming that the signature is in fact the elector's or by completing a new registration card containing the elector's current signature or by filing a new agent designation form.

(7) If an elector notified pursuant to subsection (5) fails to verify the signature before 8 p.m. on election day, the ballot must be handled as a provisional ballot under 13-15-107.

~~(6)~~ (8) After receiving an absentee ballot secrecy envelope, without opening the secrecy envelope, the election judges shall on election day place the secrecy envelope in the proper ballot box."

{Internal References to 13-13-241:

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13-13-201 13-13-232 13-13-232 13-13-244
13-13-603 13-15-104 13-15-107 }

Section 24. Section 13-13-301, MCA, is amended to read:

"13-13-301. Challenges. (1) An elector's right to vote may be challenged at any time by any registered elector by the challenger filling out and signing an affidavit stating the grounds of the challenge and providing any evidence supporting the challenge to the election administrator or, on election day, to an election judge.

(2) A challenge may be made on the grounds that the elector:

- (a) is of unsound mind, as determined by a court;
- (b) has voted before in that election;
- (c) has been convicted of a felony and is serving a sentence in a penal institution;
- (d) is not registered as required by law;
- (e) is not 18 years of age or older;
- (f) has not been, for at least 30 days, a resident of the county in which the elector is offering to vote; or
- (g) is a provisionally registered elector whose status has not been changed to a legally registered voter.

(3) When a challenge has been made under this section:

- (a) prior to the close of registration under 13-2-301, the election administrator shall question the challenger and the challenged elector and may question other persons to determine whether the challenge is sufficient or insufficient to cancel the

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elector's registration under 13-2-402; or

(b) after the close of registration or on election day, the election administrator or, on election day, the election judge shall allow the challenged elector to cast a provisional paper ballot, which must be handled as provided in 13-15-107.

(4) (a) In response to a challenge, the challenged elector may fill out and sign an affidavit to refute the challenge and swear that the elector is eligible to vote.

(b) If the challenge was not made in the presence of the elector being challenged, the election administrator or election judge shall notify the challenged elector ~~as soon as possible~~ of who made the challenge and the grounds of the challenge and explain what information the elector may provide to respond to the challenge. The notification must be made:

(i) within 5 days of the filing of the challenge, if the election is more than 5 days away; or

(ii) on or before election day, if the election is less than 5 days away.

(c) The election administrator or, on election day, the election judge shall also provide to the challenged elector a copy of the challenger's affidavit and any supporting evidence provided. ~~If the challenge is made more than 5 days before an election, "as soon as possible", as used in this subsection (4) (b), means no later than 5 days after the challenge.~~

(5) The secretary of state shall adopt rules to implement the provisions of this section and shall provide standardized affidavit forms for challengers and challenged electors."

{Internal References to 13-13-301:
13-15-107 20-20-303 20-20-303}

Section 25. Section 13-15-107, MCA, is amended to read:

"13-15-107. Handling and counting provisional and challenged ballots. (1) To verify eligibility to vote, a provisionally registered elector who casts a provisional ballot has until 5 p.m. on the day after the election to provide valid identification information either in person, by facsimile, by electronic ~~mail~~ means, or by mail postmarked no later than the day after the election.

(2) (a) If a legally registered elector casts a provisional ballot because the elector failed to provide sufficient identification as required pursuant to 13-13-114(1)(a), the election administrator shall compare the ~~elector's~~ signature of the elector or the elector's agent designated pursuant to 13-1-116 on the affirmation required under 13-13-601 to the ~~elector's~~ signature on the elector's voter registration card or the agent's designation form.

(b) If the signatures match, the election administrator shall handle the ballot as provided in subsection (6).

(c) If the signatures do not match and the elector or agent fails to provide valid identification information by the deadline, the ballot must be rejected and handled as provided in 13-15-108.

(3) A provisional ballot must be counted if the election administrator verifies the elector's identity or eligibility

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pursuant to rules adopted under 13-13-603. However, if the election administrator cannot verify the elector's identity or eligibility under the rules, the elector's provisional ballot must be rejected and handled as provided in 13-15-108. If the ballot is provisional because of a challenge and the challenge was made on the grounds that the elector is of unsound mind or serving a felony sentence in a penal institution, the elector's provisional ballot must be counted unless the challenger provides documentation by 5 p.m. on the day after the election that a court has established that the elector is of unsound mind or that the elector has been convicted and sentenced and is still serving a felony sentence in a penal institution.

(4) The election administrator shall provide an elector who cast a provisional ballot but whose ballot was not counted with the reasons why the ballot was not counted.

(5) (a) A provisional ballot ~~cast by an elector whose voter information is verified before 5 p.m. on the day after the election~~ must be removed from its provisional envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other provisional ballot if the elector's voter information is:

(a) verified before 5 p.m. on the day after the election; or

(b) postmarked by 5 p.m. on the day after election day and received and verified by 3 p.m. on the sixth day after the election.

(6) Provisional ballots that are not resolved by the end of election day may not be counted until after 3 p.m. on the sixth

day after the election."

{Internal References to 13-15-107:

13-13-204

13-13-241

13-13-301

13-13-601

13-13-602

13-13-603}

Section 26. Section 13-17-103, MCA, is amended to read:

"13-17-103. Required specifications for voting systems. (1)

A voting system may not be approved under 13-17-101 unless the voting system:

- (a) allows an elector to vote in secrecy;
- (b) prevents an elector from voting for any candidate or on any ballot issue more than once;
- (c) prevents an elector from voting on any office or ballot issue for which the elector is not entitled to vote;
- (d) allows an elector to vote only for the candidates of the party selected by the elector in the primary election;
- (e) allows an elector to vote a split ticket in a general election if the elector desires;
- (f) allows each valid vote cast to be registered and recorded within the performance standards adopted pursuant to subsection (2);
- (g) ~~may be~~ is protected from tampering for a fraudulent purpose;
- (h) prevents an individual from seeing or knowing the number of votes registered for any candidate or on any ballot issue during the progress of voting;
- (i) allows write-in voting;
- (j) will, if purchased by a jurisdiction within the state,

be provided with a guarantee that the training and technical assistance will be provided to election officials under the contract for purchase of the voting system;

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

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

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

{Internal References to 13-17-103:
13-1-202 13-17-101 13-17-212}

Section 27. Section 13-17-203, MCA, is amended to read:

"13-17-203. Publication of information concerning voting systems. (1) Not more than 10 or less than 3 days before an election at which a voting system will be used, the election administrator shall publish on radio or television, as provided in 2-3-105 through 2-3-107, or in a newspaper of general circulation in the county:

~~(1)~~(a) a diagram showing the voting system and ballot arrangement (in newspaper only);

~~(2)~~(b) a statement of the locations where voting systems

are on public exhibition; and

~~(3)~~(c) instructions on how to vote.

(2) The election administrator shall select the method of notification that the election administrator believes is best suited to reach the largest number of potential voters."

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

Section 28. Section 13-17-212, MCA, is amended to read:

"13-17-212. Performance testing and certification of voting systems prior to election. (1) No more than 30 days prior to an election in which a voting system is used, the election administrator shall publicly test and certify that the system is performing properly.

(2) The secretary of state shall ensure that at least 10% of ~~all voting systems~~ each type of voting system in the state ~~have~~ has been randomly tested and certified at least once every calendar year.

~~—— (3) If any type of direct recording electronic voting system is approved pursuant to 13-17-101 after meeting the requirements of 13-17-103, provision must be made to ensure that, at a minimum, each system is tested and certified as follows:~~

~~—— (a) upon delivery;~~

~~—— (b) no more than 30 days prior to the election; and~~

~~—— (c) on election day.~~

~~(4)~~(5) The provisions of this section must be implemented according to rules adopted by the secretary of state pursuant to 13-17-211."

{Internal References to 13-17-212:
13-17-211 13-17-211}

Section 29. Section 13-19-102, MCA, is amended to read:

"13-19-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Ballot" means the ballot or set of ballots that is to be returned by a specified election day.

~~(1)~~(2) "Election day" is the date established by law on which a particular election would be held if that election were being conducted by means other than a mail ballot election.

~~(2) "Mail ballot election" means any election conducted by mail pursuant to 13-19-104 and in compliance with the procedure specified in 13-19-106.~~

(3) "Political subdivision" means a political subdivision of the state, including a school district.

(4) "Return/verification envelope" means an envelope that contains a secrecy envelope and ballot and that is designed to:

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

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

(5) "Secrecy envelope" means an envelope used to contain the elector's ballot and that is designed to conceal the elector's ~~vote~~ ballot and to prevent that elector's ballot from being distinguished from the ballots of other electors.

{Internal References to 13-19-102: None.}

Section 30. Section 13-19-105, MCA, is amended to read:

"13-19-105. Role of secretary of state. In addition to other powers and duties conveyed by law, the secretary of state, with advice from election administrators, shall:

(1) prescribe the form of materials to be used in the conduct of mail ballot elections;

(2) review written plans for the conduct of mail ballot elections as provided in 13-19-205; and

(3) adopt rules consistent with this chapter to:

(a) establish and maintain uniformity in the conduct of mail ballot elections; and

(b) establish procedures for the conduct of mail ballot elections that, when implemented by the election administrator:

(i) prevent fraud;

(ii) ensure the accurate handling and canvassing of mail ballots; and

(iii) ensure that the secrecy of voted ballots is maintained."

{Internal References to 13-19-105: None.}

Section 31. Section 13-19-106, MCA, is amended to read:

"13-19-106. General requirements for mail ballot election.

A mail ballot election must be conducted substantially as follows:

(1) Subject to 13-12-202, official mail ballots must be

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prepared and all other initial procedures followed as provided by law, except that mail ballots must be paper ballots and are not required to have stubs.

(2) An official ballot must be mailed to every qualified elector of the political subdivision conducting the election.

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

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

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

(b) Except as provided in 13-21-206, the voted ballot must be received before 8 p.m. on election day.

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

(7) If the voted ballot qualifies and is otherwise valid,

officials shall then open the return/verification envelope and remove the secrecy envelope, which ~~is then voted by depositing it~~ must be deposited unopened in an official ballot box.

(8) ~~After~~ Except as provided in 13-19-312, after the close of ~~polls~~ voting on election day, voted ballots must be counted and canvassed as provided in chapter 15."

{Internal References to 13-19-106:

13-12-202 13-12-202 13-19-102 13-19-311}

Section 32. Section 13-19-204, MCA, is amended to read:

"13-19-204. Objection of political subdivision. (1) A political subdivision may, by resolution of the governing body, object to the conduct of one of its elections under this chapter. The resolution must include a statement of the reasons for the objection.

(2) If ~~such a~~ the resolution is filed with the election administrator no later than 55 days prior to election day, the election may not be conducted by mail under this chapter."

{Internal References to 13-19-204:

13-19-201 13-19-202 13-19-203}

Section 33. Section 13-19-205, MCA, is amended to read:

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

(2) The written plan must include:

(a) a timetable for the election; and

(b) sample written instructions that will be sent to the electors. The instructions must include, but are not limited to, information on the estimated amount of postage required to return the ballot and:

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

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

~~(2)~~(3) The plan may be amended by the election administrator any time prior to the 35th day before election day by notifying the secretary of state in writing of any changes.

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

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

{Internal References to 13-19-205:
13-19-105 13-19-202 13-19-203}

Section 34. Section 13-19-206, MCA, is amended to read:

"13-19-206. Distributing materials to electors --

procedure. For each election conducted under this chapter, the election administrator shall:

(1) mail a single packet to every qualified elector of the political subdivision conducting the election;

(2) ensure that each packet contains only one each of the following:

(a) an official ballot, ~~except that the election administrator may include separate ballots for each type of election being held concurrently~~ on the specified election day;

(b) a secrecy envelope;

(c) a return/verification envelope; and

(d) complete written instructions, as approved by the secretary of state pursuant to 13-19-205, for mail ballot voting and returning ballots procedures; and

(3) ensure that each packet is:

(a) addressed to a single individual elector at the most current address available from the official registration records; and

(b) deposited in the United States mail with sufficient ~~prepaid~~ postage for it to be delivered to the elector's address; and

(4) mail the packet in a manner that conforms to postal regulations to require the return, not forwarding, of undelivered packets."

{Internal References to 13-19-206: None.}

Section 35. Section 13-19-207, MCA, is amended to read:

"13-19-207. When materials to be mailed. For (1) Except as provided in subsection (2), for any election conducted by mail, ballots must be mailed no sooner than the 25th day and no later than the 15th day before election day.

(2) (a) All ballots mailed to electors on the active list must be mailed the same day.

(b) At any time before noon on the day before election day, a ballot may be mailed or, upon request, provided in person at the election administrator's office to:

(i) an elector on the inactive list after the elector reactivates the elector's registration as provided in 13-2-222;
or

(ii) an individual who registers under the late registration option provided for in 13-2-304.

(c) An elector on the inactive list must vote at the election administrator's office on election day if the elector reactivates the elector's registration after noon on the day before election day.

(d) An elector who registers pursuant to 13-2-304 on election day or on the day before election day must receive the ballot and vote it at the election administrator's office."

{Internal References to 13-19-207: None. x}

Section 36. Section 13-19-301, MCA, is amended to read:

"13-19-301. Voting mail ballots. (1) Upon receipt of his

the mailed ballot, the elector may vote by:

- (a) marking the ballot in the manner specified;
- (b) placing the marked ballot in the secrecy envelope, free of any identifying marks;
- (c) placing the secrecy envelope ~~containing a single ballot~~ in the return/verification envelope;
- (d) executing the affidavit printed on the return/verification envelope; and
- (e) returning the return/verification envelope with the secrecy envelope containing the ballot ~~enclosed~~, as provided in 13-19-306.

(2) For the purpose of this chapter, an official ballot is voted when, ~~after the requirements of 13-19-310 and 13-19-311 have been satisfied, the return/verification envelope has been opened by election officials and the secrecy envelope containing the ballot has been deposited in the official ballot box.~~ the marked ballot is received at a place of deposit."

{*Internal References to 13-19-301:*
13-19-306}

Section 37. Section 13-19-303, MCA, is amended to read:

"13-19-303. Voting by elector when absent from place of residence during conduct of election. (1) A qualified elector who will be absent from the county during the time the election is being conducted may:

- (a) vote in person in the election administrator's office as soon as ballots are available and until noon the day before

the ballots are scheduled to be mailed; or

(b) make a written request, signed by the applicant and addressed to the election administrator, that the ballot be mailed to an address other than the address that ~~which~~ appears on the registration card. Written requests must be accepted until noon the day before the ballots are scheduled to be mailed.

(2)(a) Ballots mailed to electors on the active list pursuant to this section must be mailed the same day that all other ballots are mailed, except that a ballot requested pursuant to Title 13, chapter 21, may be sent to the elector as soon as the ballot is provided.

(b) A ballot may be provided pursuant to this section until noon on the day before election day if, after the ballots are mailed to active electors:

(i) an inactive elector reactivates the elector's registration as provided in 13-2-222; or

(ii) an individual registers under the late registration option provided for in 13-2-304."

{Internal References to 13-19-303: None.}

Section 38. Section 13-19-304, MCA, is amended to read:

"13-19-304. Voting by nonregistered electors. (1) For any election being conducted under this chapter by a political subdivision that allows individuals to vote who are not registered electors, ~~such an~~ the individual may vote by appearing in person at the election administrator's office or providing materials by mail, facsimile, or electronic means and

demonstrating that ~~he~~ the individual possesses the qualifications ~~which entitle him to vote~~ required for voting.

(2) An individual complying with subsection (1) before official ballots are available may ~~leave~~ provide a card ~~with to~~ the election administrator containing ~~his signature~~ the signature of the individual or the individual's agent designated pursuant to 13-1-116 and the address to which ~~his~~ the ballot is to be mailed. The signature provided must then be used for verification when the mail ballot is returned.

(3) An individual complying with subsection (1) after official ballots are available and before the close of the polls on election day must be permitted to vote at that time."

{*Internal References to 13-19-304:*
13-19-310}

Section 39. Section 13-19-305, MCA, is amended to read:

"13-19-305. Replacement ballots -- procedures. (1) An elector may obtain a replacement ballot as provided in this section if ~~his~~ the original ballot is destroyed, spoiled, lost, or not received by the elector.

(2) An elector seeking or receiving a replacement ballot shall sign a sworn statement stating that the original ballot was either destroyed, spoiled, lost, or not received and shall present the statement to the election administrator no later than 8 p.m. on election day.

(3) Upon receiving the sworn statement, the election administrator shall issue a replacement ballot to the elector.

Each spoiled ballot must be returned before ~~a new one~~ another ballot may be issued.

(4) The election administrator shall designate ~~his~~ the election administrator's office or a central location in the political subdivision in which the election is conducted as the single location for obtaining a replacement ballot.

(5) A replacement ballot may also be issued pursuant to 13-19-313.

(6) The election administrator shall keep a record of each replacement ballot issued. If ~~he~~ the election administrator later determines that any elector to whom a replacement ballot has been issued has attempted to vote more than once, ~~he~~ the election administrator shall immediately notify the county attorney and the secretary of state of each instance."

{Internal References to 13-19-305: None.}

Section 40. Section 13-19-306, MCA, is amended to read:

"13-19-306. Returning marked ballots -- when -- where. (1) After complying with 13-19-301, an elector or ~~his~~ the elector's agent or designee may return ~~his~~ the ballot on or before election day by either:

(a) depositing the return/verification envelope in the United States mail, with sufficient postage affixed; or

(b) returning it to any place of deposit designated by the election administrator pursuant to 13-19-307.

~~(2)(3) In order to have his ballot~~ Except as provided in 13-21-206, in order for the ballot to be counted, each elector

must return it in ~~such~~ a manner that ensures it is received prior to 8 p.m. on election day."

{Internal References to 13-19-306:
13-19-106 13-19-301}

Section 41. Section 13-19-307, MCA, is amended to read:

"13-19-307. Places of deposit. (1) (a) The election administrator shall designate ~~his~~ the election administrator's office and may designate one or more places in the political subdivision in which the election is being conducted as places of deposit where ballots may be returned in person by the elector or the elector's agent or designee.

(b) If the election administrator's office is not accessible pursuant to 13-3-205, the election administrator must designate at least one accessible place of deposit.

(2) Prior to election day, ballots may be returned to any designated place of deposit only during regular business hours.

(3) On election day, each location designated as a place of deposit must be open as provided in 13-1-106, and ballots may be returned during those hours.

(4) The election administrator may designate certain locations as election day places of deposit, and any designated location ~~so designated shall~~ must function as a place of deposit only on election day.

(5) Each place of deposit must be staffed by at least two election officials who are selected as provided for election judges in 13-4-102.

~~(5)~~(6) The election administrator shall provide each designated place of deposit with an official ballot transport box secured as provided by law."

{Internal References to 13-19-307:
13-19-306}

Section 42. Section 13-19-308, MCA, is amended to read:

"13-19-308. Disposition of ballots returned in person.

Ballots returned by the elector or the elector's agent or designee in person must be processed as follows:

(1) If returned to the election administrator's office directly, the ballot must be processed in the same manner provided for ballots returned by mail except that, while the elector, agent, or designee is present, officials shall:

(a) verify the signature pursuant to 13-19-310;

(b) resolve any questions as to the validity of the ballot as provided in 13-19-314; and

(c) deposit the unopened secrecy envelope containing the voted ballot in the official ballot box.

(2) If returned to a place of deposit other than the election administrator's office, the election ~~official~~ officials on location shall:

(a) keep a log of the names of all electors ~~from~~ for whom ~~he receives~~ the officials receive ballots ~~and the names of the people who deliver the ballots~~;

(b) deposit the unopened return/verification envelope in the sealed ballot transport box provided for that purpose; and

(c) securely retain all voted ballots until they are transported to the election administrator's office. The transport boxes must then be opened and the ballots ~~disposed of~~ handled in the same manner provided for ballots returned by mail."

{Internal References to 13-19-308: None.}

Section 43. Section 13-19-310, MCA, is amended to read:

"13-19-310. Signature verification -- procedures. (1) The election administrator shall verify the signature of each elector by comparing the affidavit printed on the return/verification envelope to the signature on that elector's registration card or agent designation form or on the signature card provided under 13-19-304.

(2) If the election administrator is convinced that the individual signing the affidavit is the same as the one whose name appears on the registration card, ~~he shall~~ agent designation form, or signature card, the election administrator shall proceed to validate the ballot.

(3) If the election administrator is not convinced that the individual signing the return/verification envelope is the same as the one whose name appears on the registration card, ~~he may not validate the ballot but instead shall~~ agent designation form, or signature card, the election administrator shall:

(a) designate the ballot as a provisional ballot; and

~~(a)~~ (b) give notice to the elector as provided in 13-19-313, and

~~(b) if the discrepancy is not rectified to the election~~

~~administrator's satisfaction, present the unopened envelope and the registration card to the canvassing board for a determination."~~

{Internal References to 13-19-310:

13-19-301 13-19-308 13-19-309 13-19-311
13-19-313}

Section 44. Section 13-19-311, MCA, is amended to read:

"13-19-311. Valid ballots -- requirements. (1) Only valid ballots may be counted in an election conducted under this chapter.

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

(a) it is sealed in the secrecy envelope and returned in the return/verification envelope;

(b) the elector's signature on the affidavit on the return/verification envelope is verified pursuant to 13-19-310; and

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

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

~~(3)~~(4) A ballot is invalid if:

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

~~(a)~~(b) more than one ballot is enclosed in a single return/verification or secrecy envelope unless:

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

(ii) the return/verification envelope contains ballots from the same household, each ballot is in its own secrecy envelope, and the return/verification envelope contains a valid signature for each elector who has returned a ballot.

~~(b) any identifying marks are placed on the ballot by the elector.~~

~~(4) Failure of an elector to verify the accuracy of the elector's address or notify the election administrator of the elector's correct mailing address in conjunction with a mailed ballot, as provided in 13-19-106, invalidates an otherwise valid mailed ballot."~~

{Internal References to 13-19-311:

13-19-301 13-19-309 13-19-313}

Section 45. Section 13-19-312, MCA, is amended to read:

"13-19-312. Counting procedure. (1) Except as provided in subsection (2), after the close of voting on election day, the counting board appointed pursuant to 13-15-112 shall:

- (a) open the official ballot boxes;
- (b) open each secrecy envelope, removing the voted ballot;

and

- (c) proceed to count the votes as provided in chapter 15.

(2) On election day, the election administrator may begin the procedures described in subsection (1) before the polls close

if the election administrator complies with the procedures described in 13-15-207(3)."

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

Section 46. Section 13-19-313, MCA, is amended to read:

"13-19-313. Notice to elector -- opportunity to resolve questions. (1) As soon as possible after receipt of an elector's return/verification envelope, the election administrator shall give notice to the elector, ~~either by telephone or by first-class mail,~~ by the most expedient method available if the election administrator:

(a) is unable to verify the elector's or agent's signature under 13-19-310; ~~or~~

(b) has discovered a procedural mistake made by the elector that would invalidate the elector's ballot under 13-19-311; or

(c) finds the elector has failed to attest to the accuracy of the elector's address or notify the election administrator of the elector's correct mailing address, as provided in 13-19-106.

(2) The election administrator shall inform the elector that, ~~the elector may appear in person at the election administrator's office prior to 8 p.m. on election day, the elector may:~~ and verify the signature or correct the mistake.

~~(3) Any elector appearing pursuant to subsection (2) must be permitted to:~~

(a) by mail or in person, verify the elector's or agent's signature, after proof of identification, by affirming that the signature is in fact the elector's, ~~or~~ by completing a new

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registration card containing the elector's current signature, or by providing a new agent designation form;

(b) by mail, facsimile, telephone, or electronic means, provide the address information required under 13-19-106 or correct any minor mistake if the correction would render the ballot valid; or

(c) if necessary, request and receive a replacement ballot and vote it at ~~that time~~ the election administrator's office.

(3) The ballot of an elector who fails to provide information pursuant to subsection (2) must be handled as a provisional ballot pursuant to 13-15-107.

(4) (a) If a mail ballot is returned as undeliverable, the election administrator shall investigate the reason for the return and mail a confirmation notice. The notice must be sent by forwardable, first-class mail with a postage-paid, return-addressed notice.

(b) If the confirmation notice is returned to the election administrator, the elector must be placed on ~~an~~ the inactive list provided for in 13-2-220 until ~~that~~ the elector becomes a qualified elector."

{*Internal References to 13-19-313:*

13-19-305 13-19-310 13-19-314 13-19-314 }

Section 47. Section 13-19-314, MCA, is amended to read:

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

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(1) If the election administrator is unable to determine without doubt whether a voted ballot is valid or invalid, the election administrator shall give notice to the elector as provided in 13-19-313.

(2) If, subsequent to following the procedure in 13-19-313, the election administrator is still unable to determine without doubt whether the voted ballot is valid or invalid, the ~~election administrator shall present the issue for a determination to the counting board appointed pursuant to 13-15-112~~ ballot must be handled as a provisional ballot pursuant to 13-15-107.

~~(3) If a majority of the counting board is unable to agree on whether the ballot is valid or invalid, it may not count the ballot in question, and the election administrator shall present the ballot to the board of canvassers for a determination of the issue.~~

~~(4) If a majority of the board of canvassers is unable to agree that the ballot is valid, the ballot is invalid and may not be counted."~~

{Internal References to 13-19-314:
13-19-309}

Section 48. Section 13-21-203, MCA, is amended to read:

"13-21-203. Registration of United States electors after return. (1) A United States elector who has returned to the elector's residence too late to register at the time ~~when~~ and place ~~where~~ required for regular registration is required is entitled to register under the late registration provisions of

13-2-304; or

(b) may register for the purpose of voting at the next election after the date of the elector's return up to noon on the day before the election. The elector shall execute a sworn affidavit qualifying the elector under this section to be filed in the office of the elector's registration. The county registrar shall provide to the person registering under the provisions of this section a certificate stating the precinct in which the elector is entitled to vote. This certificate must be presented to the election judges of that precinct at the time of voting."

{*Internal References to 13-21-203:*
13-2-110}

Section 49. Section 13-21-210, MCA, is amended to read:

"13-21-210. Application for absentee ballots. (1) (a) A United States elector may apply for a regular absentee ballot as follows:

(i) by making a written request, which must include the elector's birth date and signature; or

(ii) by properly completing, signing, and returning to the election administrator the federal post card application.

(b) A person who holds a power of attorney from an absent uniformed services elector may apply for an absentee ballot for that election on behalf of the uniformed services elector. The applicant shall provide a copy of the power of attorney authorizing the request for an absentee ballot along with the application.

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(2) An application for a regular absentee ballot must be received by the appropriate county election administrator not less than 30 days before the date of an election. An application for a regular absentee ballot that is received less than 30 days before the date of an election must be processed for the next election.

(3) An application under this section is valid for all state and local elections in the calendar year in which the application is made and the next two regularly scheduled federal general elections unless an elector requests to be mailed an absentee ballot for each subsequent election in which the elector is eligible to vote or only for each subsequent federal election in which the election is eligible to vote for as long as the elector remains eligible to vote and resides at the address provided in the initial application.

(4) If an elector fails to provide the confirmation required by 13-13-212, the elector will be removed from the permanent absentee ballot list. An elector who is removed from the permanent absentee ballot list will continue to receive absentee ballots during the period covered in the elector's initial application under this section.

~~(4)~~(5) The elector's county election administrator shall provide the elector with a regular absentee ballot for the elections described in subsection (3) as soon as the ballots are printed."

{*Internal References to 13-21-210:*

13-13-211 13-21-201 13-21-202 13-21-204
13-21-206 13-21-211 }

Section 50. Section 13-27-311, MCA, is amended to read:

"13-27-311. Publication of proposed constitutional amendments. (1) If a ~~proposed~~ constitutional amendment ~~or amendments are~~ proposed by initiative is submitted to the people, the secretary of state shall have the proposed amendment ~~or amendments~~ published in full twice each month for 2 months previous to the election at which ~~they are~~ it is to be voted upon by the people, in not less than one newspaper of general circulation in each county.

(2) (a) The secretary of state may arrange, in each county, for newspaper, publication or radio, or television publication broadcast of a proposed constitutional amendments in each county. A summary of the amendment as amendment referred by the legislature.

(b) The fiscal statement, explanatory statement, and statement of implication provided for the amendment by the attorney general, as described in 13-27-312 or 13-27-315, would suffice is sufficient for the publication required or broadcast allowed by this section subsection and should be made at least twice each month for 2 months previous to the election.

(c) The election administrator must select the method of notification that the election administrator believes is best suited to reach the largest number of potential voters."

{Internal References to 13-27-311: None. x}

Section 51. Section 13-37-226, MCA, is amended to read:

"13-37-226. Time for filing reports. (1) Candidates for a state office filled by a statewide vote of all the electors of Montana and political committees that are organized to support or oppose a particular statewide candidate shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which funds are received or expended during the year or years prior to the election year that the candidate expects to be on the ballot;

(b) on the 10th day of March and September in each year that an election is to be held and on the 15th and 5th days preceding the date on which an election is held and within 24 hours after receiving a contribution of \$200 or more if received between the 10th day before the election and the day of the election;

(c) not more than 20 days after the date of the election;
and

(d) on the 10th day of March and September of each year following an election until the candidate or political committee files a closing report as specified in 13-37-228(3).

(2) Political committees organized to support or oppose a particular statewide ballot issue shall file reports:

(a) quarterly, due on the fifth day following a calendar quarter, beginning with the calendar quarter in which the text of the proposed ballot issue is submitted for review and approval pursuant to 13-27-202 during the year or years prior to the election year that an issue is or is expected to be on the ballot;

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(b) on the 10th day of March and on the 10th day of each subsequent month through September in each year that an election is to be held;

(c) on the 15th and 5th days preceding the date on which an election is held;

(d) within 24 hours after receiving a contribution of \$500 or more if received between the 10th day before the election and the day of the election;

(e) within 20 days after the election; and

(f) on the 10th day of March and September of each year following an election until the political committee files a closing report as specified in 13-37-228(3).

(3) Candidates for a state district office, including but not limited to candidates for the legislature, the public service commission, or a district court judge, and political committees that are specifically organized to support or oppose a particular state district candidate or issue shall file reports:

(a) on the 12th day preceding the date on which an election is held and within 48 hours after receiving a contribution of \$100 or more if received between the 17th day before the election and the day of the election. The report under this subsection (3) (a) may be made by mail or by electronic communication to the clerk and recorder and the commissioner of political practices.

(b) not more than 20 days after the date of the election;
and

(c) whenever a candidate or political committee files a closing report as specified in 13-37-228(3).

(4) Candidates for any other public office and political committees that are specifically organized to support or oppose a particular local issue shall file the reports specified in subsection (3) only if the total amount of contributions received or the total amount of funds expended for all elections in a campaign, excluding the filing fee paid by the candidate, exceeds \$500, except as provided in 13-37-206.

(5) For the purposes of this subsection, a committee that is not specifically organized to support or oppose a particular candidate or ballot issue and that receives contributions and makes expenditures in conjunction with an election is an independent committee. For the purpose of reporting, a political party committee is an independent committee. An independent committee shall file:

(a) a report on the 12th day preceding the date of an election in which it participates by making an expenditure;

(b) a report not more than 20 days after the date of the election in which it participates by making an expenditure; and

(c) a report on a date to be prescribed by the commissioner for a closing report at the close of each calendar year.

(6) The commissioner may promulgate rules regarding the extent to which organizations that are incidental political committees shall report their politically related activities in accordance with this chapter.

(7) All reports required by this section must be complete as of the fifth day before the date of filing as specified in 13-37-228(2) and this section."

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{Internal References to 13-37-226:

13-37-208

13-37-215

13-37-228

13-37-228

13-37-228}

Section 52. Section 20-20-107, MCA, is amended to read:

"20-20-107. Election expenses. (1) All expenses necessarily incurred in the matter of holding school elections ~~shall~~ must be paid out of the school funds of the district, except when ~~such~~ the expenses are by law to be shared by a community college district for which the district is conducting an election.

(2) The trustees ~~may~~ shall pay the election judges of a school election ~~at a rate not to exceed the prevailing at least~~ the state or federal minimum wage, whichever is greater, per hour of service in connection with such the election, including the number of hours required to attend a training session.

(3) Election judges are exempt from unemployment insurance coverage for services performed pursuant to this chapter if the remuneration received by the election judge is less than \$1,000 per calendar year."

{Internal References to 20-20-107: None.}

NEW SECTION. **Section 53. Election judges -- qualifications -- training.** (1) Election judges must be qualified registered electors of the school district in which they serve.

(2) An election judge may not be a candidate or a spouse, ascendant, descendant, brother, or sister of a candidate or a candidate's spouse or the spouse of any of these individuals in an election precinct where the candidate's name appears on the

ballot.

(3) School election judges shall meet the training and certification requirements of 13-4-203.

Section 54. Section 20-20-203, MCA, is amended to read:

"20-20-203. Resolution for poll hours, polling places, and judges. (1) At the trustee meeting when a school election is called, the trustees shall:

(a) except as provided in 20-20-106(3), establish the time at which the polls are to open if in their discretion they determine that the polls ~~shall~~ must be open before noon;

(b) establish the polling places for ~~such~~ the election, using the established polling places for general elections within the district wherever possible; and

(c) ~~appoint, from among the qualified electors of the district, at least three judges for each polling place for such election and notify each judge of such appointment not less than 10 days before the election.~~

(2) There ~~shall~~ must be one polling place in each district unless the trustees establish additional polling places. If more than one polling place is established, the trustees shall define the boundaries for each polling place, ~~and such trustee-defined polling place~~ so that the boundaries shall be for each polling place are coterminous with county precinct boundaries existing within a district. If the site of a polling place is changed from the polling place site used for the last preceding school election, special reference to the changed site of the polling

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place ~~shall~~ must be included in the notice for such election."

{Internal References to 20-20-203:
20-9-422 20-20-417}

NEW SECTION. **Section 55. Tie votes.** If a tie vote occurs among the candidates for a school trustee position, the trustees shall appoint one of the candidates who tied to fill the office as in other cases of vacancy.

- END -

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