

HOUSE BILL NO. 283

INTRODUCED BY K. REGIER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ABSENTEE AND MAIL BALLOT ELECTION LAWS;
5 ELIMINATING THE REQUIREMENT FOR AN ELECTOR TO RETURN UNVOTED PARTY BALLOTS IN A
6 PRIMARY ELECTION; REQUIRING ABSENTEE AND MAIL ELECTION BALLOTS TO BE RETURNED IN A
7 SIGNATURE ENVELOPE WITH A DETACHABLE SIGNATURE FLAP; REVISING WHEN A SECRECY
8 ENVELOPE MUST BE USED IN ADDITION TO A SIGNATURE ENVELOPE; REVISING DEFINITIONS;
9 REVISING THE SECRETARY OF STATE'S RULEMAKING AUTHORITY; REVISING WHAT ELECTION
10 MATERIALS AN ELECTION ADMINISTRATOR MUST RETAIN; REVISING PROCEDURES FOR PROCESSING
11 RETURNED ABSENTEE AND MAIL ELECTION BALLOTS; AMENDING SECTIONS 13-1-101, 13-1-202,
12 13-1-303, 13-13-201, 13-13-214, 13-13-232, 13-13-241, 13-13-244, 13-13-602, 13-13-603, 13-15-108, 13-15-201,
13 13-19-102, 13-19-106, 13-19-205, 13-19-206, 13-19-301, AND 13-19-312, MCA; AND PROVIDING EFFECTIVE
14 DATES."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 13-1-101, MCA, is amended to read:

19 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
20 definitions apply:

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

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

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

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

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

- 1 (6) "Candidate" means:
- 2 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or
- 3 appointment as a candidate for public office as required by law;
- 4 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained
- 5 contributions, made expenditures, or given consent to an individual, organization, political party, or committee
- 6 to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination
- 7 or election to any office at any time, whether or not the office for which the individual will seek nomination or
- 8 election is known when the:
- 9 (i) solicitation is made;
- 10 (ii) contribution is received and retained; or
- 11 (iii) expenditure is made; or
- 12 (c) an officeholder who is the subject of a recall election.
- 13 (7) (a) "Contribution" means:
- 14 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value
- 15 to influence an election;
- 16 (ii) a transfer of funds between political committees;
- 17 (iii) the payment by a person other than a candidate or political committee of compensation for the
- 18 personal services of another person that are rendered to a candidate or political committee.
- 19 (b) "Contribution" does not mean:
- 20 (i) services provided without compensation by individuals volunteering a portion or all of their time on
- 21 behalf of a candidate or political committee or meals and lodging provided by individuals in their private
- 22 residences for a candidate or other individual;
- 23 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any
- 24 broadcasting station, newspaper, magazine, or other periodical publication of general circulation;
- 25 (iii) the cost of any communication by any membership organization or corporation to its members or
- 26 stockholders or employees; or
- 27 (iv) filing fees paid by the candidate.
- 28 (8) "Detachable signature flap" means a flap on the back of a signature envelope that:
- 29 (a) can be detached from the body of the envelope;
- 30 (b) contains the affirmation required by 13-13-214;

1 (c) contains a space for an elector's signature executing the affirmation; and

2 (d) allows election officials, upon examination of the signature on the flap, to determine that a ballot is
 3 being submitted by someone who is in fact a qualified elector and who has not already voted.

4 ~~(8)~~(9) "Election" means a general, regular, special, or primary election held pursuant to the requirements
 5 of state law, regardless of the time or purpose.

6 ~~(9)~~(10) "Election administrator" means the county clerk and recorder or the individual designated by a
 7 county governing body to be responsible for all election administration duties, except that with regard to school
 8 elections not administered by the county, the term means the school district clerk.

9 ~~(10)~~(11) "Elector" means an individual qualified to vote under state law.

10 ~~(11)~~(12) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or
 11 gift of money or anything of value made for the purpose of influencing the results of an election.

12 (b) "Expenditure" does not mean:

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

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

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

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

20 ~~(12)~~(13) "Federal election" means a general or primary election in which an elector may vote for
 21 individuals for the office of president of the United States or for the United States congress.

22 ~~(13)~~(14) "General election" or "regular election" means an election held for the election of public officers
 23 throughout the state at times specified by law, including elections for officers of political subdivisions when the
 24 time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues
 25 required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the
 26 legislature to the electors at a general election, "general election" means an election held at the time provided
 27 in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted
 28 as a constitutional initiative at a regular election, regular election means an election held at the time provided in
 29 13-1-104(1).

30 ~~(14)~~(15) "Inactive elector" means an individual who failed to respond to confirmation notices and whose

1 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.

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

3 ~~(16)~~(17) "Individual" means a human being.

4 ~~(17)~~(18) (a) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their
5 approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall
6 questions, school levy questions, bond issue questions, or a ballot question.

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

11 ~~(18)~~(19) "Legally registered elector" means an individual whose application for voter registration was
12 accepted, processed, and verified as provided by law.

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

15 ~~(20)~~(21) "Person" means an individual, corporation, association, firm, partnership, cooperative,
16 committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

17 ~~(21)~~(22) "Place of deposit" means a location designated by the election administrator pursuant to
18 13-19-307 for a mail ballot election conducted under Title 13, chapter 19.

19 ~~(22)~~(23) "Political committee" means a combination of two or more individuals or a person other than an
20 individual who makes a contribution or expenditure:

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

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

24 (c) as an earmarked contribution.

25 ~~(23)~~(24) "Political subdivision" means a county, consolidated municipal-county government, municipality,
26 special district, or any other unit of government, except school districts, having authority to hold an election for
27 officers or on a ballot issue.

28 ~~(24)~~(25) "Polling place election" means an election primarily conducted at polling places rather than by
29 mail under the provisions of Title 13, chapter 19.

30 ~~(25)~~(26) "Primary" or "primary election" means an election held throughout the state to nominate

1 candidates for public office at times specified by law, including nominations of candidates for offices of political
2 subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

3 ~~(26)~~(27) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not
4 been verified as provided by law.

5 ~~(27)~~(28) "Provisionally registered elector" means an individual whose application for voter registration
6 was accepted but whose identity or eligibility has not yet been verified as provided by law.

7 ~~(28)~~(29) "Public office" means a state, county, municipal, school, or other district office that is filled by
8 the people at an election.

9 ~~(29)~~(30) "Random-sample audit" means an audit involving a manual count of ballots from designated
10 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

11 ~~(30)~~(31) "Registrar" means the county election administrator and any regularly appointed deputy or
12 assistant election administrator.

13 ~~(31)~~(32) "School election" has the meaning provided in 20-20-101.

14 ~~(32)~~(33) "School election filing officer" means the filing officer with whom the declarations for nomination
15 for school district office were filed or with whom the school ballot issue was filed.

16 ~~(33)~~(34) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount
17 duties in school elections.

18 (35) "Secrecy envelope" means an envelope used to contain a provisionally registered elector's ballot
19 and that is designed to conceal the elector's ballot and to prevent that elector's ballot from being distinguished
20 from the ballots of other electors.

21 ~~(34)~~(36) "Signature envelope" means an envelope with a detachable signature flap on the outside of the
22 envelope, that contains a ~~secrecy envelope and ballot,~~ and that is designed to:

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

25 (a) when the detachable signature flap is removed, conceal the elector's ballot and prevent that elector's
26 ballot from being distinguished from the ballots of other electors; and

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

28 ~~(35)~~(37) "Special election" means an election other than a statutorily scheduled primary or general
29 election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily
30 scheduled election.

1 ~~(36)~~(38) "Statewide voter registration list" means the voter registration list established and maintained
2 pursuant to 13-2-107 and 13-2-108.

3 ~~(37)~~(39) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an
4 elector to transfer the elector's registration when the elector's residence address has changed within the county.

5 ~~(38)~~(40) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided
6 in 13-15-206.

7 ~~(39)~~(41) "Voted ballot" means a ballot that is:

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

11 ~~(40)~~(42) "Voting system" or "system" means any machine, device, technology, or equipment used to
12 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."

13

14 **Section 2.** Section 13-1-202, MCA, is amended to read:

15 **"13-1-202. Forms and rules prescribed by secretary of state -- consultation.** (1) In carrying out the
16 responsibilities under 13-1-201, the secretary of state shall prepare and deliver to the election administrators:

- 17 (a) written directives and instructions relating to and based on the election laws;
- 18 (b) sample copies of prescribed and suggested forms; and
- 19 (c) advisory opinions on the effect of election laws other than those laws in chapter 35, 36, or 37 of this
20 title.

21 (2) The secretary of state may prescribe the design of any election form required by law, including the
22 design of a detachable signature flap and a signature envelope. The secretary of state shall seek the advice of
23 election administrators and printers in designing the required forms.

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

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

- 28 (a) evaluate voting system performance against the benchmark standard adopted pursuant to 13-17-103;
- 29 (b) evaluate the security, accuracy, and accessibility of elections; and
- 30 (c) assist the secretary of state in making recommendations to improve voter confidence in the integrity

1 of the election process.

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

4

5 **Section 3.** Section 13-1-303, MCA, is amended to read:

6 **"13-1-303. Disposition of ballots and other election materials.** (1) (a) Except for a federal election
7 and as provided in 13-15-301(2), the voted ballots, detached stubs, unvoted ballots, detachable signature flaps,
8 and unused ballots from an election must be kept in the unopened packages received from the election judges
9 for a period of 12 months. The packages may be opened only when an order for opening is given by the proper
10 official either for a recount procedure or to process provisional ballots.

11 (b) The voted ballots, detached stubs, unvoted ballots, detachable signature flaps, and unused ballots
12 from a federal election must be retained in the unopened packages received from the election judges for a period
13 of 22 months. The packages may be opened only as provided in subsection (1)(a) or for a postelection
14 random-sample audit of vote-counting machines.

15 (c) An election administrator may dispose of the ballots as provided in subsection (2) if after the time
16 periods provided for in this subsection (1), there is no:

17 (i) contest begun;

18 (ii) recount pending; or

19 (iii) appeal of a decision relating to a contest, a recount, or a postelection random-sample audit.

20 (2) Each election administrator shall prepare a plan for retention and destruction of election records in
21 the county according to the retention schedules established by the local government records committee provided
22 for in 2-6-402."

23

24 **Section 4.** Section 13-13-201, MCA, is amended to read:

25 **"13-13-201. Voting by absentee ballot -- procedures.** (1) A legally registered elector or provisionally
26 registered elector is entitled to vote by absentee ballot as provided for in this part.

27 (2) The elector may vote absentee by:

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

29 (b) (i) if the elector is legally registered, placing the marked ballot in the ~~secrecy envelope, free of any~~
30 identifying marks;

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

3 (ii) if the elector is provisionally registered, placing the marked ballot in the secrecy envelope and placing
 4 the secrecy envelope in the signature envelope;

5 ~~(d)(c)~~ executing the affirmation printed on the detachable signature ~~envelope flap~~; and

6 ~~(e)(d)~~ returning the signature envelope with all appropriate enclosures by regular mail, postage paid, or
 7 by delivering it to:

8 (i) the election office;

9 (ii) a polling place within the elector's county;

10 (iii) pursuant to 13-13-229, the absentee election board or an authorized election official; or

11 (iv) in a mail ballot election held pursuant to Title 13, chapter 19, a designated place of deposit within the
 12 elector's county.

13 (3) Except as provided in 13-21-206 and 13-21-226, in order for the ballot to be counted, each elector
 14 shall return it in a manner that ensures the ballot is received prior to 8 p.m. on election day.

15 (4) A provisionally registered elector may also enclose in the ~~outer~~ signature envelope a copy of the
 16 elector's photo identification showing the elector's name. The photo identification may be but is not limited to a
 17 valid driver's license, a school district or postsecondary education photo identification, or a tribal photo
 18 identification. If the provisionally registered elector does not enclose a photo identification, the elector may
 19 enclose a copy of a current utility bill, bank statement, paycheck, notice of confirmation of voter registration issued
 20 pursuant to 13-2-207, government check, or other government document that shows the elector's name and
 21 current address."

22

23 **Section 5.** Section 13-13-214, MCA, is amended to read:

24 **"13-13-214. Mailing absentee ballot to elector -- delivery to person other than elector.** (1) (a) Except
 25 as provided in 13-13-213 and in subsection (1)(c) of this section, the election administrator shall mail, postage
 26 prepaid, to each legally registered elector and provisionally registered elector from whom the election
 27 administrator has received a valid absentee ballot application under 13-13-211 and 13-13-212 whatever official
 28 ballots are necessary in a manner that conforms to postal regulations to require the return rather than forwarding
 29 of ballots.

30 (b) The election administrator shall mail the ballots in a manner that conforms to the deadlines

1 established for ballot availability in 13-13-205.

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

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

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

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

8 and

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

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

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

12 ~~—— (b) a signature envelope for the return of the ballots. The signature envelope must be self-addressed~~
13 ~~by the election administrator and an affirmation in the form prescribed by the secretary of state must be printed~~
14 ~~on the detachable signature flap on the back of the signature envelope. If the ballot is sent to a provisionally~~
15 ~~registered elector, the election administrator shall enclose a secrecy envelope.~~

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

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

22 ~~(5)~~(4) Instructions for voting must be enclosed with the ballots. Instructions for primary elections must
23 include ~~use of the envelope for~~ that an elector does not need to return any unvoted party ballots. The instructions
24 must include information concerning the type or types of writing instruments that may be used to mark the
25 absentee ballot. The instructions must include information regarding use of ~~the secrecy envelope and use of the~~
26 ~~signature envelope, the detachable signature flap, and how provisionally registered electors should use the~~
27 secrecy envelope. The election administrator shall include a voter information pamphlet with the instructions if:

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

29 (b) the elector requests a voter information pamphlet."
30

1 **Section 6.** Section 13-13-232, MCA, is amended to read:

2 **"13-13-232. Delivery of ballots and ~~secrecy~~ signature envelopes to election judges -- ballots to**
3 **be rejected.** (1) If an absentee ballot is received prior to delivery of the official ballots to the election judges, the
4 election administrator shall process it according to 13-13-241 and then deliver the unopened ~~secrecy~~ signature
5 envelope to the judges at the same time that the ballots are delivered.

6 (2) If an absentee ballot is received after the official ballots are delivered to the election judges but prior
7 to the close of the polls, the election administrator shall process it according to 13-13-241 and shall then
8 immediately deliver the unopened ~~secrecy~~ signature envelope to the judges.

9 (3) If the election administrator receives an absentee ballot for which an application or request was not
10 made or received as required by this part, the election administrator shall endorse upon the elector's envelope
11 the date and exact time of receipt and the words "to be rejected". Absentee ballots endorsed in this manner must
12 be handled in the same manner as provided in 13-15-108(1)."

13

14 **Section 7.** Section 13-13-241, MCA, is amended to read:

15 **"13-13-241. Examination of absentee ballot signature envelopes -- deposit of absentee and**
16 **unvoted ballots -- rulemaking.** (1) (a) Upon receipt of each absentee ballot signature envelope, an election
17 administrator shall compare the signature of the elector or elector's agent on the absentee ballot request or on
18 the elector's voter registration card with the signature on the detachable signature envelope flap.

19 (b) If the elector is legally registered and the signature on the detachable signature envelope flap
20 matches the signature on the absentee ballot application or on the elector's voter registration card, the election
21 administrator or an election judge shall remove the detachable signature flap, place it in a box marked "Approved
22 Signatures", and handle the ballot as a regular ballot.

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

28 (ii) If the voter identification and eligibility information is sufficient to legally register the elector, ~~the ballot~~
29 must be handled the election administrator or election judge shall place the detachable signature flap in a box
30 marked "Approved Signatures", place the ballot and secrecy envelope in a proper, secured ballot box, and handle

1 the ballot as a regular ballot.

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

4 (2) If a voted absentee ballot returned by a provisionally registered elector has not been placed in a
5 secrecy envelope, the election administrator shall place the ballot in a secrecy envelope without examining the
6 ballot.

7 (3) ~~In~~ if an elector in a primary election; returns unvoted party ballots, they must be separated from the
8 ~~secrecy~~ signature envelopes and ~~handled without being removed from their enclosure envelopes~~ retained
9 pursuant to 13-1-303. ~~If an unvoted party ballot is not received, the election administrator shall process the voted~~
10 ~~party ballot as if the unvoted party ballot had been received.~~

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

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

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

19 (7) After receiving an absentee ballot ~~secrecy~~ signature envelope and if the validity of the ballot is
20 confirmed pursuant to 13-13-245, then no sooner than 1 business day before election day, the election official
21 may, in the presence of a poll watcher, open the ~~secrecy~~ signature envelope and place the ballot in the proper,
22 secured ballot box until tabulation occurs on election day.

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

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

28 (a) the allowable distance from the observers to the judges and ballots;

29 (b) the security in the observation area;

30 (c) secrecy of votes during the preparation of the ballots, including procedures to ensure all detachable

1 signature flaps are removed for valid ballots before counting; and

2 (d) security of the secured ballot boxes in storage until tabulation procedures begin on election day."

3

4 **Section 8.** Section 13-13-244, MCA, is amended to read:

5 **"13-13-244. Opening of signature envelopes after deposit.** If a signature envelope containing an
6 absentee ballot has been deposited unopened in the ballot box and the envelope has not been marked rejected
7 or had the detachable signature flap removed, the signature envelope must be processed as provided in
8 13-13-241."

9

10 **Section 9.** Section 13-13-602, MCA, is amended to read:

11 **"13-13-602. Fail-safe and provisional voting by mail.** (1) To ensure the election administrator has
12 information sufficient to determine the elector's eligibility to vote, an elector voting by mail may enclose in the
13 ~~outer~~ signature envelope, together with the voted ballot ~~in the secrecy envelope~~, a copy of a current and valid
14 photo identification with the elector's name or a copy of a current utility bill, bank statement, paycheck, notice of
15 confirmation of voter registration issued pursuant to 13-2-207, government check, or other government document
16 that shows the elector's name and current address or other information necessary to determine the elector's
17 eligibility to vote.

18 (2) The elector's ballot must be handled as a provisional ballot under 13-15-107 if:

19 (a) a provisionally registered elector voting by mail does not enclose with the ballot the information
20 described in subsection (1);

21 (b) the information provided under subsection (1) is invalid or insufficient to verify the elector's eligibility;

22 or

23 (c) the elector's name does not appear on the precinct register."

24

25 **Section 10.** Section 13-13-603, MCA, is amended to read:

26 **"13-13-603. Rulemaking on provisional voting, absentee ballots, and challenged ballots.** (1) The
27 secretary of state shall adopt rules to:

28 (a) implement the provisions of 13-13-114 and this part concerning verification of voter identification and
29 eligibility;

30 (b) establish standards for determining the sufficiency of information provided on absentee ballot

1 detachable signature envelopes flaps pursuant to 13-13-241;

2 (c) implement the provisions of 13-15-107 on the handling and counting of provisional and challenged
3 ballots, including the establishment of procedures for verifying voter registration and eligibility information with
4 respect to the ballots.

5 (2) The rules may not conflict with rules established under 13-2-109."
6

7 **Section 11.** Section 13-15-108, MCA, is amended to read:

8 **"13-15-108. Rejected ballots -- handling provided by rule.** (1) All rejected absentee ballots, the
9 absentee ballot applications, and all absentee ballot detached signature envelopes flaps must be handled and
10 marked as provided under rules adopted by the secretary of state.

11 (2) After being handled and marked as provided in this section, all rejected ballots must be placed in a
12 package or container in which the voted ballots are to be placed and the package or container must be sealed,
13 dated, and marked as provided under rules adopted by the secretary of state. After a package or container is
14 sealed pursuant to this subsection (2), a package or container may not be opened without a court order."
15

16 **Section 12.** Section 13-15-201, MCA, is amended to read:

17 **"13-15-201. Preparation for count -- absentee ballot count procedures.** (1) Subject to 13-10-311,
18 to prepare for a count of ballots, the counting board or, if appointed, the absentee counting board shall take
19 ballots out of the box to determine whether each ballot is single.

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

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

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

28 (5) If two or more ballots are folded or stuck together to look like a single ballot, they must be laid aside
29 until the count is complete. The counting board shall compare the count with the pollbooks, and if a majority
30 believes that the ballots folded together were marked by one elector, the ballots must be rejected and handled

1 as provided in 13-15-108, otherwise they must be counted.

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

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

4 (a) the elector's signature on the affirmation on the detachable signature ~~envelope~~ flap is verified
5 pursuant to 13-13-241; and

6 (b) it is received before 8 p.m. on election day, except as provided in 13-21-206 and 13-21-226.

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

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

9 (ii) any identifying marks are placed on the ballot by the elector, which must result in the immediate
10 rejection of the ballot without notice to the elector; or

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

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

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

16 (ii) the signature envelope contains ballots from the same household, ~~each ballot is in its own secrecy~~
17 ~~envelope~~, and the detachable signature ~~envelope~~ flap contains a valid signature for each elector who has
18 returned a ballot."

19

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

21 **"13-19-102. Definitions.** As used in this chapter, the following definitions apply:

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

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

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

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

29

30 **Section 14.** Section 13-19-106, MCA, is amended to read:

1 **"13-19-106. General requirements for mail ballot election.** A mail ballot election must be conducted
2 substantially as follows:

3 (1) Subject to 13-12-202, official mail ballots must be prepared and all other initial procedures followed
4 as provided by law, except that mail ballots must be paper ballots and are not required to have stubs.

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

7 (3) Each detachable signature envelope flap must contain a form that is the same as the form for
8 absentee ballot detachable signature envelopes flaps and that is prescribed by the secretary of state for the
9 elector to verify the accuracy of the elector's address or notify the election administrator of the elector's correct
10 mailing address and to return the corrected address with the voted ballot in the manner provided by 13-19-306.

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

12 (5) (a) The elector shall then place sign the secrecy detachable signature flap on the signature envelope,
13 containing the elector's ballot in a signature envelope and mail it the envelope or deliver it in person to a place
14 of deposit designated by the election administrator.

15 (b) Except as provided in 13-21-206 and 13-21-226, the voted ballot must be received before 8 p.m. on
16 election day.

17 (6) Election officials shall first qualify the voted ballot by examining the detachable signature envelope
18 flap to determine whether it is submitted by a qualified elector who has not previously voted in the election.

19 (7) If the voted ballot qualifies and is otherwise valid, officials shall then open the signature envelope and
20 remove the secrecy envelope, which must be deposited remove the detachable signature flap, place it in a box
21 marked "Approved Signatures", and deposit the signature envelope unopened in an official ballot box.

22 (8) Except as provided in 13-19-312, after the close of voting on election day, voted ballots must be
23 counted and canvassed as provided in Title 13, chapter 15."
24

25 **Section 15.** Section 13-19-205, MCA, is amended to read:

26 **"13-19-205. Written plan for conduct of election -- amendments -- approval procedures.** (1) The
27 election administrator shall prepare a written plan for the conduct of the election and shall submit it to the
28 secretary of state in a manner that ensures that it is received at least 60 days prior to the date set for the election.

29 (2) The written plan must include:

30 (a) a timetable for the election; and

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

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

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

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

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

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

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

13 (5) When the written plan has been approved, the election administrator shall proceed to conduct the
14 election according to the approved plan unless the election is canceled for any reason provided by law."
15

16 **Section 16.** Section 13-19-206, MCA, is amended to read:

17 "**13-19-206. Distributing materials to electors -- procedure.** For each election conducted under this
18 chapter, the election administrator shall:

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

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

21 (a) an official ballot for each type of election being held on the specified election day;

22 ~~(b) a secrecy envelope;~~

23 ~~(c)~~(b) a signature envelope;

24 (c) for provisionally registered electors, a secrecy envelope; and

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

27 (3) ensure that each packet is:

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

30 (b) deposited in the United States mail with sufficient postage for it to be delivered to the elector's

1 address; and

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

4

5 **Section 17.** Section 13-19-301, MCA, is amended to read:

6 **"13-19-301. Voting mail ballots.** (1) Upon receipt of a mailed ballot, the elector may vote by:

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

8 (b) (i) if the elector is legally registered, placing the marked ballot in the ~~secrecy~~ signature envelope, free
9 of any identifying marks;

10 ~~(e)(ii) if the elector is provisionally registered,~~ placing the marked ballot in the secrecy envelope
11 containing one ballot for each election being held and placing the secrecy envelope in the signature envelope;

12 ~~(d)(c)~~ executing the affirmation printed on the detachable signature ~~envelope flap~~; and

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

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

16

17 **Section 18.** Section 13-19-312, MCA, is amended to read:

18 **"13-19-312. Preparation for count and counting procedure.** (1) The preparation for counting ballots
19 must be as provided in 13-15-201.

20 (2) Except as provided in subsection (3), after the close of voting on election day, the counting board
21 appointed pursuant to 13-15-112 shall:

22 (a) open the official ballot boxes;

23 (b) open each ~~secrecy~~ signature envelope, removing the voted ballot; and

24 (c) proceed to count the votes as provided in Title 13, chapter 15.

25 (3) On election day, the election administrator may begin the procedures described in subsection (2)
26 before the polls close if the election administrator complies with the procedures described in 13-15-207(3)."

27

28 **NEW SECTION. Section 19. Effective date.** (1) Except as provided in subsection (2), [this act] is
29 effective January 1, 2016.

30 (2) [Section 2] and this section are effective on passage and approval.

31

- END -