

MARCH 25, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 157
 2 INTRODUCED BY *Wayne J. Brown*
 3 BY REQUEST OF THE SECRETARY OF STATE
 4 *Robert Caschirilla*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO ELECTIONS; PROHIBITING INDEPENDENT
 7 CANDIDATES FROM BEING ASSOCIATED WITH A POLITICAL PARTY FOR
 8 1 YEAR PRIOR TO SEEKING OFFICE; ALLOWING FOR INSPECTION OF
 9 BALLOTS DURING A CANVASS; PROVIDING FOR STAGGERED TERMS FOR
 10 FIRE DISTRICT TRUSTEES; AMENDING SECTIONS 7-4-2611,
 11 7-13-2214, 7-13-2225, 7-13-2241, 7-13-2247, 7-33-2106,
 12 13-4-106, 13-10-503, 13-13-114, 13-13-115, 13-13-212,
 13 13-14-115, 13-15-111, 13-15-403, 13-19-106, 13-19-206,
 14 13-19-306, 13-19-308, 13-19-311, 13-19-312, 13-37-201, AND
 15 13-37-225, MCA; AND REPEALING SECTIONS 7-13-2237, 7-13-2238,
 16 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, AND 7-13-2245,
 17 MCA."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 **Section 1.** Section 7-4-2611, MCA, is amended to read:

21 ***7-4-2611. Role and duties of county clerk and election**
 22 **administrator.** (1) The county clerk of any county is also
 23 clerk of the county commissioners and ex officio recorder.
 24 Any duty imposed by law upon such officer, either as county
 25 clerk, clerk of the county commissioners, or recorder, shall

1 be performed by the county clerk, and any official act
 2 performed or certified by the county clerk shall be as valid
 3 and effectual as if performed and certified to by him as
 4 clerk of the county commissioners or as recorder.

5 (2) The county clerk must:

6 (a) take charge of and safely keep or dispose of
 7 according to law all books, papers, maps, and records which
 8 may be filed or deposited in his office;

9 (b) record all the proceedings of the board;

10 (c) make full entries of all its resolutions and
 11 decisions on all questions concerning the raising of money
 12 for and the allowance of accounts against the county;

13 (d) record the vote of each member on any question upon
 14 which there is a division or at the request of any member
 15 present;

16 (e) sign all orders made and warrants issued by order
 17 of the board for the payment of money and certify the same
 18 to the county treasurer;

19 (f) record the reports of the county treasurer of the
 20 receipts and disbursements of the county;

21 (g) preserve and file all accounts acted upon by the
 22 board;

23 (h) preserve and file all petitions and applications
 24 for franchises and record the action of the board thereon;

25 (i) record all orders levying taxes;

1 (j) designate upon every account allowed by the board
2 the amount allowed and deliver to any person who may demand
3 it a certified copy of any record in his office or any
4 account on file therein;

5 (k) as often as a new township is organized or the
6 boundaries of any township are altered, immediately make out
7 and transmit to the secretary of state a certified statement
8 of the names and boundaries and the boundaries of any
9 township altered;

10 (l) keep such other records and books and perform such
11 other duties as are prescribed by law or by rule or order of
12 the board.

13 (3) ~~A---county---clerk---and---recorder~~ An election
14 administrator shall file, code, and cross-index all reports
15 and statements filed as prescribed by the commissioner of
16 political practices.

17 (4) ~~A---county---clerk---and---recorder~~ An election
18 administrator shall make statements and other information
19 filed under the provisions of Title 13, chapters 35, 36, and
20 37, in his office available for public inspection and
21 copying during regular office hours and make copying
22 facilities available free of charge or at a charge not to
23 exceed actual cost."

24 **Section 2.** Section 7-13-2214, MCA, is amended to read:

25 "7-13-2214. Order creating district upon sufficient

1 favorable vote. (1) If at least 40% of all registered voters
2 residing within the proposed district have voted and if a
3 majority of the votes cast at such election in each
4 municipal corporation or part thereof and in the
5 unincorporated territory of each county included in such
6 proposed district shall be in favor of organizing such
7 county district, said board of county commissioners of each
8 such county shall, by an order entered on its minutes,
9 declare the territory enclosed within the proposed
10 boundaries duly organized as a county water and/or sewer
11 district under the name theretofore designated.

12 (2) The ~~county-clerk~~ election administrator of each
13 such county shall immediately cause to be filed with the
14 secretary of state and shall cause to be recorded in the
15 office of the ~~county clerk and~~ recorder of the county or
16 each county in which such district is situated a certificate
17 stating that such a proposition was adopted."

18 **Section 3.** Section 7-13-2225, MCA, is amended to read:

19 "7-13-2225. **Combination of elections.** (1) The board of
20 county commissioners in its discretion may combine in one
21 election the election on the formation of the district, the
22 election of directors, and the election on incurring a
23 bonded indebtedness so that the electors of the district may
24 vote on all of these matters on the same date and at the
25 same time.

1 (2) If the elections are combined, the board of county
2 commissioners shall so declare by resolution containing the
3 provisions required by 7-13-2321. If the elections are
4 combined, the notice of the election shall contain the names
5 of the candidates and the details concerning the bonded
6 indebtedness.

7 (3) Candidates for the office of director shall be
8 nominated in the manner required by ~~7-13-2235--through~~
9 ~~7-13-2247~~ 7-13-2241 and 7-13-2246."

10 **Section 4.** Section 7-13-2241, MCA, is amended to read:

11 "7-13-2241. Presentation Filing of petition of
12 nomination. (1) A petition of nomination, consisting-of-not
13 less-than-five-individual-certificates signed by at least
14 five electors of the district for any one candidate, may be
15 presented-to filed with the election administrator not
16 earlier than 90 135 days or later than 75 days before the
17 election. The election administrator shall endorse thereon
18 the date upon which the petition was presented to him.

19 (2) If the district lies in more than one county, the
20 petition for nomination shall be presented to the election
21 administrator whose county contains the largest percentage
22 of the territory of the district and the election
23 administrator shall fulfill all duties assigned to election
24 administrators in elections under this part and part 23.

25 (3) If the petition conforms to this section, the

1 election administrator shall place the name of the
2 petitioner on the ballot as a candidate for director of the
3 district."

4 **Section 5.** Section 7-13-2247, MCA, is amended to read:

5 "7-13-2247. Preservation of petitions and-certificates.
6 The county clerk shall preserve in his office for a period
7 of 2 years all petitions of nomination ~~and-all--certificates~~
8 ~~belonging-thereto~~ filed under ~~7-13-2244~~ 7-13-2241."

9 **Section 6.** Section 7-33-2106, MCA, is amended to read:

10 "7-33-2106. Details relating to board of trustees of
11 fire district. (1) (a) The five trustees initially appointed
12 by the county commissioners shall hold staggered terms of
13 office until their successors are elected or appointed and
14 qualified as hereinafter provided.

15 (b) The initial trustees' terms of office shall be
16 drawn by lot and include:

17 (i) 3 years for one trustee;

18 (ii) 2 years for two trustees; and

19 (iii) 1 year for two trustees.

20 (c) Upon expiration of the terms provided in subsection
21 (1)(b), each trustee shall serve a 3-year term of office.

22 (2) Trustees shall be elected as provided in subsection
23 (3) of this section, 13-1-104(3), and 13-1-401 or appointed
24 as provided in subsection (4) of this section. The term of
25 office shall be 3 years beginning at the first district

1 meeting following their election or appointment and
 2 continuing until their successors are elected or appointed
 3 and qualified. Appointments to fill vacancies shall be made
 4 by the county governing body and appointees shall hold
 5 office until the next regular election. All electors, as
 6 defined in Title 13, who reside in the district are eligible
 7 to vote in the election, including any holder of title to
 8 lands within the district who presents a proof of interest
 9 in such land at the polling place, regardless of whether he
 10 is registered to vote.

11 (3) Candidates for the office of trustee of the fire
 12 district to be filled by election may be nominated by
 13 petition filed with the election administrator or deputy
 14 election administrator at least 75 days before the election
 15 day and signed by at least five electors of the district.

16 (4) If no nominations are made for one or more trustee
 17 offices, the county governing body shall appoint one or more
 18 trustees as necessary to fill those offices.

19 (5) The trustees shall organize by choosing a chairman
 20 and appointing one member to act as secretary."

21 **Section 7.** Section 13-4-106, MCA, is amended to read:

22 "**13-4-106. Compensation of judges.** (1) Election Except
 23 as provided in subsection (2), election judges shall be paid
 24 at the prevailing federal minimum wage for the number of
 25 hours worked during an election plus the number of hours

1 spent at the instruction session. Mileage may be paid to
 2 election judges for attending instruction sessions.

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

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

10 **Section 8.** Section 13-10-503, MCA, is amended to read:

11 "**13-10-503. Filing deadlines.** (1) A petition for
 12 nomination, accompanied by the required filing fee, shall be
 13 filed with the same officer with whom other nominations for
 14 the office sought are filed. Petitions must be submitted, at
 15 least 1 week before the deadline for filing, to the election
 16 administrator in the county where the signer resides for
 17 verification and certification by the procedures provided in
 18 13-27-303 through 13-27-306. In the event there are
 19 insufficient signatures on the petition, additional
 20 signatures may be submitted before the deadline for filing.

21 (2) Except as provided in 13-10-504, each petition
 22 shall be filed ~~on--or~~ before the ~~filing deadline for the~~
 23 scheduled primary election or the filing deadline for the
 24 special or general election if no primary election is
 25 scheduled."

1 NEW SECTION. Section 9. Independent candidates --
 2 association with political parties not allowed. (1) A person
 3 seeking office as an independent candidate may not be
 4 associated with a political party for 1 year prior to the
 5 submission of his nomination petition.

6 (2) For the purposes of subsection (1), "associated
 7 with a political party" means having made contributions to a
 8 party, having run for office as a partisan candidate, or
 9 having held an office with a political party designation.

10 **Section 10.** Section 13-13-114, MCA, is amended to read:

11 "13-13-114. Marking precinct register book before
 12 elector votes. (1) Before an elector is permitted to receive
 13 a ballot or vote, he shall sign his name on the place
 14 designated in the precinct register. Before signing the
 15 register, the elector shall state his name and current
 16 address. If the name or address is not as listed in the
 17 precinct register, the elector must complete a transfer form
 18 or new registration form to correct the information. The
 19 election judges shall write "transfer form" or "registration
 20 form" beside the name of any elector submitting a form. No
 21 elector may sign the precinct register unless his name and
 22 address are the same as shown in the register or the proper
 23 corrections have been made.

24 ~~(2) The election judges shall require an elector not~~
 25 ~~able to sign his name to produce two electors who shall sign~~

1 ~~an affidavit stating that the elector is the individual~~
 2 ~~whose name and address appears in the precinct register~~
 3 ~~before one or more of the election judges on a form~~
 4 ~~prescribed by the secretary of state. The affidavit shall be~~
 5 ~~filed by the election judges and returned to the election~~
 6 ~~administrator with the returns of the election. One of the~~
 7 ~~judges shall write the elector's name, noting the fact of~~
 8 ~~his inability to sign, and the names of the two electors~~
 9 ~~signing the affidavit.~~

10 (2) If the elector is not able to sign his name to the
 11 precinct register, a fingerprint or other identifying mark
 12 may be used.

13 (3) If the elector fails or refuses to sign his name
 14 or, if unable to write, fails to procure two electors who
 15 will take the oath required provide a fingerprint or other
 16 identifying mark, he may not vote."

17 **Section 11.** Section 13-13-115, MCA, is amended to read:

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

25 (2) In precincts where machines or devices are used, a

1 pollbook need be used only for paper ballots. The election
2 administrator shall provide such precincts with some method
3 of recording the number of individuals voting."

4 **Section 12.** Section 13-13-212, MCA, is amended to read:

5 "13-13-212. Application for absentee ballot. (1)
6 Application for absentee ballots shall be made by a written
7 request signed by the applicant and addressed to or
8 transmitted by facsimile to the election administrator of
9 the applicant's county of residence.

10 (2) Application for an absentee ballot may be made by
11 any elector in the United States service by the federal post
12 card application or by any written request signed by the
13 applicant and addressed to or transmitted by facsimile to
14 the election administrator of the applicant's county of
15 residence.

16 (3) If an elector requests an absentee ballot because
17 of a sudden illness or health emergency, the application for
18 an absentee ballot may be made by written request signed by
19 the elector at the time the ballot is delivered in person by
20 the special absentee election board provided for in
21 13-13-225. Such elector may request by telephone, facsimile
22 transmission, or other means to have a ballot and
23 application personally delivered to him by the special
24 absentee election board at his place of confinement,
25 hospitalization, or residence within the county. Such a

1 request may be made no later than noon on election day."

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

3 "13-14-115. Preparation and distribution of nonpartisan
4 primary ballots. (1) The election administrators shall
5 arrange, prepare, and distribute primary ballots for
6 nonpartisan offices, designated "nonpartisan primary
7 ballots". They shall be arranged as other primary ballots
8 and be without political designation.

9 (2) The number of nonpartisan primary ballots and
10 sample ballots furnished shall be the same as other primary
11 ballots.

12 (3) (a) The governing-body election administrator of a
13 political subdivision may determine that a primary need not
14 be held if:

15 ~~(a)~~(i) the number of candidates for an office exceeds
16 twice the number to be elected to that office in no more
17 than one-half of the offices on the ballot; and

18 ~~(b)~~(ii) the number of candidates in excess of twice the
19 number to be elected is not more than one for any office on
20 the ballot; ~~and.~~

21 (b) If the election administrator determines that a
22 primary need not be held pursuant to subsection (3)(a), he
23 must give notice to the governing body that no primary
24 election will be held.

25 ~~(c)~~(4) the The governing body may require that a

1 primary election be held if it passes a resolution not more
2 than 7 14 days after the close of filing by candidates for
3 election, stating that a primary election need-not shall be
4 held."

5 **Section 14.** Section 13-15-111, MCA, is amended to read:

6 "13-15-111. Write-in elections -- general election. (1)
7 An individual elected by having his name written in at the
8 general election and receiving the largest number of votes
9 shall:

10 (a) file with the secretary of state or election
11 administrator, not later than 10 days after the official
12 canvass, a written declaration indicating his acceptance of
13 the position for which he was elected; and

14 (b) comply with the provisions of 13-37-225; and

15 (c) pay the required filing fee or comply with
16 13-10-203 if indigent.

17 (2) If an individual fails to file the declaration as
18 required under subsection (1)(a), he may not assume the
19 position for which he was elected."

20 **Section 15.** Section 13-15-403, MCA, is amended to read:

21 "13-15-403. Canvass to be public -- nonessentials to be
22 disregarded -- petition for recount. (1) The canvass shall
23 be public. It shall proceed by opening the returns, auditing
24 the tally books or other records of votes cast, determining
25 the vote for each individual and for and against each ballot

1 issue from each precinct, compiling totals, and declaring or
2 certifying the results.

3 (2) The board shall record all write-in votes shown in
4 the returns from each precinct.

5 (3) The returns may not be rejected because of failure
6 to show who administered the oath to the election judges,
7 failure to complete all the certificates in a pollbook, or
8 because of failure of any other act making up the returns
9 that is not essential to determine for whom the votes were
10 cast.

11 (4) If during a canvass the board finds an error in a
12 precinct or precincts affecting the accuracy of vote totals,
13 the board immediately may petition for a recount of the
14 votes cast in the precinct or precincts, as provided in
15 13-16-201, or for an inspection of ballots, as provided in
16 [section 16]."

17 **NEW SECTION. Section 16.** Misplaced or missing ballots.

18 If during a recount the county recount board discovers that
19 ballots are misplaced or missing, it may petition the
20 election administrator to inspect all sealed ballots within
21 the county precincts to find the misplaced or missing
22 ballots. Upon completion of the recount, the misplaced or
23 missing ballots must be placed in their proper precinct and
24 sealed with the remaining ballots.

25 **Section 17.** Section 13-19-106, MCA, is amended to read:

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

4 (1) Official ballots must be prepared and all other
5 initial procedures followed as otherwise provided by law,
6 except that mail ballots are not required to have stubs.

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

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

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

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

23 (6) If the ballot so qualifies and is otherwise valid,
24 officials shall then open the return/verification envelope
25 and remove the secrecy envelope, which is then voted by

1 depositing it unopened in an official ballot box.

2 (7) After the close of polls on election day, voted
3 ballots must be counted and canvassed as otherwise provided
4 by law."

5 **Section 18.** Section 13-19-206, MCA, is amended to read:

6 "13-19-206. Distributing materials to electors --
7 procedure. For each election conducted under this chapter,
8 the election administrator shall:

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

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

13 (a) an official ballot, except that the election
14 administrator may include separate ballots for each type of
15 election being held concurrently;

16 (b) a secrecy envelope;

17 (c) a return/verification envelope; and

18 (d) complete written instructions for voting and
19 returning ballots; and

20 (3) ensure that each packet is:

21 (a) clearly marked on its face with the words ~~"DO NOT~~
22 ~~FORWARD--RETURN TO--SENDER--RETURN--POSTAGE--GUARANTEED."~~
23 stating the appropriate postal regulation language to
24 prohibit forwarding of the packet;

25 (b) addressed to a single individual elector at the

1 most current address available from the official
2 registration records; and

3 (c) deposited in the United States mail with sufficient
4 prepaid postage for it to be delivered to the elector's
5 address."

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

7 "13-19-306. Returning marked ballots -- when -- where.

8 (1) After complying with 13-19-301, an elector or his
9 designee may return his ballot on or before election day by
10 either:

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

13 (b) returning it ~~in--person~~ to any place of deposit
14 designated by the election administrator pursuant to
15 13-19-307.

16 (2) In order to have his ballot counted, each elector
17 must return it in such a manner that it is received prior to
18 8 p.m. on election day."

19 **Section 20.** Section 13-19-308, MCA, is amended to read:

20 "13-19-308. Disposition of ballots returned in person.

21 Ballots returned by the elector in person must be processed
22 as follows:

23 (1) If returned to the election administrator's office
24 directly, the ballot must be processed in the same manner
25 provided for ballots returned by mail except that, while the

1 elector is present, officials shall:

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

3 (b) resolve any questions as to the validity of the
4 ballot; and

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

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

10 (a) keep a log of the names of all electors from whom
11 he receives ballots and the names of the people who deliver
12 the ballots;

13 ~~(b)--have-the-elector-sign-the-log-where--his--name--has~~
14 ~~been-entered;~~

15 ~~(c)--while-the-elector-is-present,compare-the-signature~~
16 ~~on-the-return/verification-envelope-with-that-entered-in-the~~
17 ~~log-and-resolve-any-discrepancies-with-the-elector;~~

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

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

1 **Section 21.** Section 13-19-311, MCA, is amended to read:

2 "13-19-311. Valid ballots -- requirements. (1) Only
3 valid ballots may be counted in an election conducted under
4 this chapter.

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

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

9 (b) the elector's signature on the affidavit on the
10 return/verification envelope is verified pursuant to
11 13-19-310; and

12 (c) it is received before 8 p.m. on election day.

13 (3) A ballot is invalid if:

14 (a) more than one ballot is enclosed in a single
15 return/verification or secrecy envelope unless there are
16 multiple elections being held at the same time and there is
17 only one ballot for each election in the envelope; or

18 (b) any identifying marks are placed on the ballot by
19 the elector."

20 **Section 22.** Section 13-19-312, MCA, is amended to read:

21 "13-19-312. Procedure at close of voting. (1) After the
22 close of voting on election day, election officials shall:

23 (1)(a) open the official ballot boxes;

24 (2)(b) open each secrecy envelope, removing the ballot;

25 and

1 (3)(c) proceed to count the votes as otherwise provided
2 by law.

3 (2) On election day, the election administrator may
4 begin the procedures described in subsection (1) before the
5 polls close if he complies with the procedures described in
6 13-15-103."

7 **Section 23.** Section 13-37-201, MCA, is amended to read:

8 "13-37-201. Campaign treasurer. Except as provided in
9 13-37-206, each candidate and each political committee shall
10 appoint one campaign treasurer and certify the full name and
11 complete address of the campaign treasurer pursuant to this
12 section. A candidate shall file the certification within 5
13 days after becoming a candidate. A political committee shall
14 file the certification, which shall include an
15 organizational statement and set forth the name and address
16 of all other officers, if any, within 5 days after it makes
17 an expenditure or authorizes another person to make an
18 expenditure on its behalf, whichever occurs first. The
19 certification of a candidate or political committee shall be
20 filed with the commissioner and the appropriate county-clerk
21 and-recorder election administrator as specified for the
22 filing of reports in 13-37-225."

23 **Section 24.** Section 13-37-225, MCA, is amended to read:

24 "13-37-225. Reports of contributions and expenditures
25 required. (1) Except as provided in 13-37-206, each

1 candidate and political committee shall file periodic
 2 reports of contributions and expenditures made by or on the
 3 behalf of a candidate or political committee. All reports
 4 required by this chapter shall be filed with the
 5 commissioner and with the ~~county-clerk-and-recorder~~ election
 6 administrator of the county in which a candidate is a
 7 resident or the political committee has its headquarters.
 8 However, where residency within a district, county, city, or
 9 town is not a prerequisite for being a candidate, copies of
 10 all reports shall be filed with the ~~county--clerk--and~~
 11 ~~recorder~~ election administrator of the county in which the
 12 election is to be held or, if the election is to be held in
 13 more than one county, with the ~~clerk-and-recorder~~ election
 14 administrator in the county that the commissioner specifies.

15 (2) In lieu of all contribution and expenditure reports
 16 required by this chapter, the commissioner shall accept
 17 copies of the reports filed by candidates for congress and
 18 president of the United States and their political
 19 committees pursuant to the requirements of federal law."

20 NEW SECTION. Section 25. Repealer. Sections 7-13-2237,
 21 7-13-2238, 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, and
 22 7-13-2245, MCA, are repealed.

23 NEW SECTION. Section 26. Codification instruction. (1)
 24 [Section 9] is intended to be codified as an integral part
 25 of Title 13, chapter 10, part 5, and the provisions of Title

1 13, chapter 10, part 5, apply to [section 9].

2 (2) [Section 16] is intended to be codified as an
 3 integral part of Title 13, chapter 16, part 4, and the
 4 provisions of Title 13, chapter 16, part 4, apply to
 5 [section 16].

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 SENATE BILL NO. 157

2 INTRODUCED BY VAUGHN, J. BROWN, BECKER, COCCHIARELLA

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO ELECTIONS; REVISING THE LAWS RELATING TO
7 COUNTY WATER AND SEWER DISTRICT ELECTIONS; PROHIBITING
8 INDEPENDENT CANDIDATES FROM BEING ASSOCIATED WITH A
9 POLITICAL PARTY FOR 1 YEAR PRIOR TO SEEKING OFFICE; ALLOWING
10 FOR INSPECTION OF BALLOTS DURING A CANVASS; PROVIDING FOR
11 STAGGERED TERMS FOR FIRE DISTRICT TRUSTEES; EXEMPTING
12 ELECTION JUDGES FROM UNEMPLOYMENT INSURANCE COVERAGE;
13 AMENDING SECTIONS 7-4-2611, 7-13-2214, 7-13-2225, 7-13-2241,
14 7-13-2247, 7-33-2106, 13-4-106, 13-10-503, 13-13-114,
15 13-13-115, 13-13-212, 13-14-115, 13-15-111, 13-15-403,
16 13-19-106, 13-19-206, 13-19-306, 13-19-308, 13-19-311,
17 13-19-312, 13-37-201, AND 13-37-225, AND 39-51-204, MCA; AND
18 REPEALING SECTIONS 7-13-2237, 7-13-2238, 7-13-2239,
19 7-13-2240, 7-13-2242, 7-13-2244, AND 7-13-2245, MCA."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 7-4-2611, MCA, is amended to read:

23 "7-4-2611. Role and duties of county clerk and election
24 administrator. (1) The county clerk of any county is also
25 clerk of the county commissioners and ex officio recorder.

1 Any duty imposed by law upon such officer, either as county
2 clerk, clerk of the county commissioners, or recorder, shall
3 be performed by the county clerk, and any official act
4 performed or certified by the county clerk shall be as valid
5 and effectual as if performed and certified to by him as
6 clerk of the county commissioners or as recorder.

7 (2) The county clerk must:

8 (a) take charge of and safely keep or dispose of
9 according to law all books, papers, maps, and records which
10 may be filed or deposited in his office;

11 (b) record all the proceedings of the board;

12 (c) make full entries of all its resolutions and
13 decisions on all questions concerning the raising of money
14 for and the allowance of accounts against the county;

15 (d) record the vote of each member on any question upon
16 which there is a division or at the request of any member
17 present;

18 (e) sign all orders made and warrants issued by order
19 of the board for the payment of money and certify the same
20 to the county treasurer;

21 (f) record the reports of the county treasurer of the
22 receipts and disbursements of the county;

23 (g) preserve and file all accounts acted upon by the
24 board;

25 (h) preserve and file all petitions and applications

SECOND READING

1 for franchises and record the action of the board thereon;

2 (i) record all orders levying taxes;

3 (j) designate upon every account allowed by the board

4 the amount allowed and deliver to any person who may demand

5 it a certified copy of any record in his office or any

6 account on file therein;

7 (k) as often as a new township is organized or the

8 boundaries of any township are altered, immediately make out

9 and transmit to the secretary of state a certified statement

10 of the names and boundaries and the boundaries of any

11 township altered;

12 (l) keep such other records and books and perform such

13 other duties as are prescribed by law or by rule or order of

14 the board.

15 (3) ~~A---county---clerk---and---recorder~~ An election

16 administrator shall file, code, and cross-index all reports

17 and statements filed as prescribed by the commissioner of

18 political practices.

19 (4) ~~A---county---clerk---and---recorder~~ An election

20 administrator shall make statements and other information

21 filed under the provisions of Title 13, chapters 35, 36, and

22 37, in his office available for public inspection and

23 copying during regular office hours and make copying

24 facilities available free of charge or at a charge not to

25 exceed actual cost."

1 **Section 2.** Section 7-13-2214, MCA, is amended to read:

2 "7-13-2214. Order creating district upon sufficient

3 favorable vote. (1) If at least 40% of all registered voters

4 residing within the proposed district have voted and if a

5 majority of the votes cast at such election in each

6 municipal corporation or part thereof and in the

7 unincorporated territory of each county included in such

8 proposed district shall be in favor of organizing such

9 county district, said board of county commissioners of each

10 such county shall, by an order entered on its minutes,

11 declare the territory enclosed within the proposed

12 boundaries duly organized as a county water and/or sewer

13 district under the name theretofore designated.

14 (2) The ~~county--clerk~~ election administrator of each

15 such county shall immediately cause to be filed with the

16 secretary of state and shall cause to be recorded in the

17 office of the county clerk and recorder of the county or

18 each county in which such district is situated a certificate

19 stating that such a proposition was adopted."

20 **Section 3.** Section 7-13-2225, MCA, is amended to read:

21 "7-13-2225. Combination of elections. (1) The board of

22 county commissioners in its discretion may combine in one

23 election the election on the formation of the district, the

24 election of directors, and the election on incurring a

25 bonded indebtedness so that the electors of the district may

1 vote on all of these matters on the same date and at the
2 same time.

3 (2) If the elections are combined, the board of county
4 commissioners shall so declare by resolution containing the
5 provisions required by 7-13-2321. If the elections are
6 combined, the notice of the election shall contain the names
7 of the candidates and the details concerning the bonded
8 indebtedness.

9 (3) Candidates for the office of director shall be
10 nominated in the manner required by ~~7-13-2235~~ through
11 ~~7-13-2247~~ 7-13-2241 and 7-13-2246."

12 **Section 4.** Section 7-13-2241, MCA, is amended to read:
13 "7-13-2241. Presentation Filing of petition of
14 nomination. (1) A petition of nomination, ~~consisting of~~ not
15 ~~less than five individual certificates~~ signed by at least
16 five electors of the district for any one candidate, may be
17 ~~presented to~~ filed with the election administrator not
18 earlier than ~~90~~ 135 days or later than 75 days before the
19 election. The election administrator shall endorse thereon
20 the date upon which the petition was presented to him.

21 (2) If the district lies in more than one county, the
22 petition for nomination shall be presented to the election
23 administrator whose county contains the largest percentage
24 of the territory of the district and the election
25 administrator shall fulfill all duties assigned to election

1 administrators in elections under this part and part 23.

2 (3) If the petition conforms to this section, the
3 election administrator shall place the name of the
4 petitioner on the ballot as a candidate for director of the
5 district."

6 **Section 5.** Section 7-13-2247, MCA, is amended to read:
7 "7-13-2247. Preservation of petitions and certificates.
8 The county clerk shall preserve in his office for a period
9 of 2 years all petitions of nomination ~~and all certificates~~
10 ~~belonging thereto~~ filed under ~~7-13-2244~~ 7-13-2241."

11 **Section 6.** Section 7-33-2106, MCA, is amended to read:
12 "7-33-2106. Details relating to board of trustees of
13 fire district. (1) (a) The five trustees initially appointed
14 by the county commissioners shall hold staggered terms of
15 office until their successors are elected or appointed and
16 qualified as hereinafter provided.

17 (b) The initial trustees' terms of office shall be
18 drawn by lot and include:

- 19 (i) 3 years for one trustee;
20 (ii) 2 years for two trustees; and
21 (iii) 1 year for two trustees.

22 (c) Upon expiration of the terms provided in subsection
23 (1)(b), each trustee shall serve a 3-year term of office.

24 (2) Trustees shall be elected as provided in subsection
25 (3) of this section, 13-1-104(3), and 13-1-401 or appointed

1 as provided in subsection (4) of this section. The term of
 2 office shall be 3 years beginning at the first district
 3 meeting following their election or appointment and
 4 continuing until their successors are elected or appointed
 5 and qualified. Appointments to fill vacancies shall be made
 6 by the county governing body and appointees shall hold
 7 office until the next regular election. All electors, as
 8 defined in Title 13, who reside in the district are eligible
 9 to vote in the election, including any holder of title to
 10 lands within the district who presents a proof of interest
 11 in such land at the polling place, regardless of whether he
 12 is registered to vote.

13 (3) Candidates for the office of trustee of the fire
 14 district to be filled by election may be nominated by
 15 petition filed with the election administrator or deputy
 16 election administrator at least 75 days before the election
 17 day and signed by at least five electors of the district.

18 (4) If no nominations are made for one or more trustee
 19 offices, the county governing body shall appoint one or more
 20 trustees as necessary to fill those offices.

21 (5) The trustees shall organize by choosing a chairman
 22 and appointing one member to act as secretary."

23 **Section 7.** Section 13-4-106, MCA, is amended to read:

24 "13-4-106. Compensation of judges. (1) Election Except
 25 as provided in subsection (2), election judges shall be paid

1 at the prevailing federal minimum wage for the number of
 2 hours worked during an election plus the number of hours
 3 spent at the instruction session. Mileage may be paid to
 4 election judges for attending instruction sessions. ELECTION
 5 JUDGES ARE EXEMPT FROM UNEMPLOYMENT INSURANCE COVERAGE FOR
 6 SERVICES PERFORMED PURSUANT TO THIS CHAPTER.

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

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

14 **Section 8.** Section 13-10-503, MCA, is amended to read:

15 "13-10-503. Filing deadlines. (1) A petition for
 16 nomination, accompanied by the required filing fee, shall be
 17 filed with the same officer with whom other nominations for
 18 the office sought are filed. Petitions must be submitted, at
 19 least 1 week before the deadline for filing, to the election
 20 administrator in the county where the signer resides for
 21 verification and certification by the procedures provided in
 22 13-27-303 through 13-27-306. In the event there are
 23 insufficient signatures on the petition, additional
 24 signatures may be submitted before the deadline for filing.

25 (2) Except as provided in 13-10-504, each petition

1 shall be filed ~~on--or~~ before the ~~filing-deadline-for-the~~
 2 scheduled primary election or the filing deadline for the
 3 special or general election if no primary election is
 4 scheduled."

5 NEW SECTION. Section 9. Independent candidates --
 6 association with political parties not allowed. (1) A person
 7 seeking office as an independent candidate may not be
 8 associated with a political party for 1 year prior to the
 9 submission of his nomination petition.

10 (2) For the purposes of subsection (1), "associated
 11 with a political party" means having made contributions to a
 12 party, having run for office as a partisan candidate, or
 13 having held an office with a political party designation.

14 **Section 10.** Section 13-13-114, MCA, is amended to read:

15 "13-13-114. **Marking precinct register book before**
 16 **elector votes.** (1) Before an elector is permitted to receive
 17 a ballot or vote, he shall sign his name on the place
 18 designated in the precinct register. Before signing the
 19 register, the elector shall state his name and current
 20 address. If the name or address is not as listed in the
 21 precinct register, the elector must complete a transfer form
 22 or new registration form to correct the information. The
 23 election judges shall write "transfer form" or "registration
 24 form" beside the name of any elector submitting a form. No
 25 elector may sign the precinct register unless his name and

1 address are the same as shown in the register or the proper
 2 corrections have been made.

3 ~~(2) The election judges shall require an elector not~~
 4 ~~able to sign his name to produce two electors who shall sign~~
 5 ~~an affidavit stating that the elector is the individual~~
 6 ~~whose name and address appears in the precinct register~~
 7 ~~before one or more of the election judges on a form~~
 8 ~~prescribed by the secretary of state. The affidavit shall be~~
 9 ~~filed by the election judges and returned to the election~~
 10 ~~administrator with the returns of the election. One of the~~
 11 ~~judges shall write the elector's name, noting the fact of~~
 12 ~~his inability to sign, and the names of the two electors~~
 13 ~~signing the affidavit.~~

14 (2) If the elector is not able to sign his name to the
 15 precinct register, a fingerprint or other identifying mark
 16 may be used.

17 (3) If the elector fails or refuses to sign his name
 18 or, if unable to write, fails to ~~procure two electors who~~
 19 ~~will take the oath required~~ provide a fingerprint or other
 20 identifying mark, he may not vote."

21 **Section 11.** Section 13-13-115, MCA, is amended to read:

22 "13-13-115. **Pollbooks.** (1) In precincts using paper
 23 ballots, the name of each elector who votes shall be entered
 24 in a pollbook and numbered in the order voting so that the
 25 number corresponds with the number on the stubs of the

1 ballots given the elector or an election judge may use a
2 numbering device to stamp the number of the ballot stub next
3 to the name of the elector in a precinct register/pollbook.

4 (2) In precincts where machines or devices are used, a
5 pollbook need be used only for paper ballots. The election
6 administrator shall provide such precincts with some method
7 of recording the number of individuals voting."

8 **Section 12.** Section 13-13-212, MCA, is amended to read:

9 "13-13-212. Application for absentee ballot. (1)
10 Application for absentee ballots shall be made by a written
11 request signed by the applicant and addressed to or
12 transmitted by facsimile to the election administrator of
13 the applicant's county of residence.

14 (2) Application for an absentee ballot may be made by
15 any elector in the United States service by the federal post
16 card application or by any written request signed by the
17 applicant and addressed to or transmitted by facsimile to
18 the election administrator of the applicant's county of
19 residence.

20 (3) If an elector requests an absentee ballot because
21 of a sudden illness or health emergency, the application for
22 an absentee ballot may be made by written request signed by
23 the elector at the time the ballot is delivered in person by
24 the special absentee election board provided for in
25 13-13-225. Such elector may request by telephone, facsimile

1 transmission, or other means to have a ballot and
2 application personally delivered to him by the special
3 absentee election board at his place of confinement,
4 hospitalization, or residence within the county. Such a
5 request may be made no later than noon on election day."

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

7 "13-14-115. Preparation and distribution of nonpartisan
8 primary ballots. (1) The election administrators shall
9 arrange, prepare, and distribute primary ballots for
10 nonpartisan offices, designated "nonpartisan primary
11 ballots". They shall be arranged as other primary ballots
12 and be without political designation.

13 (2) The number of nonpartisan primary ballots and
14 sample ballots furnished shall be the same as other primary
15 ballots.

16 (3) (a) The governing-body election administrator of a
17 political subdivision may determine that a primary need not
18 be held if:

19 (a)(i) the number of candidates for an office exceeds
20 twice the number to be elected to that office in no more
21 than one-half of the offices on the ballot; and

22 (b)(ii) the number of candidates in excess of twice the
23 number to be elected is not more than one for any office on
24 the ballot; and.

25 (b) If the election administrator determines that a

1 primary need not be held pursuant to subsection (3)(a), he
 2 must give notice to the governing body that no primary
 3 election will be held.

4 ~~(c)~~(4) the The governing body may require that a
 5 primary election be held if it passes a resolution not more
 6 than 7 14 days after the close of filing by candidates for
 7 election, stating that a primary election need-not shall be
 8 held."

9 **Section 14.** Section 13-15-111, MCA, is amended to read:

10 "13-15-111. Write-in elections -- general election. (1)
 11 An individual elected by having his name written in at the
 12 general election and receiving the largest number of votes
 13 shall:

14 (a) file with the secretary of state or election
 15 administrator, not later than 10 days after the official
 16 canvass, a written declaration indicating his acceptance of
 17 the position for which he was elected; and

18 (b) comply with the provisions of 13-37-225; and

19 (c) pay the required filing fee or comply with
 20 13-10-203 if indigent.

21 (2) If an individual fails to file the declaration as
 22 required under subsection (1)(a), he may not assume the
 23 position for which he was elected."

24 **Section 15.** Section 13-15-403, MCA, is amended to read:

25 "13-15-403. Canvass to be public -- nonessentials to be

1 disregarded -- petition for recount. (1) The canvass shall
 2 be public. It shall proceed by opening the returns, auditing
 3 the tally books or other records of votes cast, determining
 4 the vote for each individual and for and against each ballot
 5 issue from each precinct, compiling totals, and declaring or
 6 certifying the results.

7 (2) The board shall record all write-in votes shown in
 8 the returns from each precinct.

9 (3) The returns may not be rejected because of failure
 10 to show who administered the oath to the election judges,
 11 failure to complete all the certificates in a pollbook, or
 12 because of failure of any other act making up the returns
 13 that is not essential to determine for whom the votes were
 14 cast.

15 (4) If during a canvass the board finds an error in a
 16 precinct or precincts affecting the accuracy of vote totals,
 17 the board immediately may petition for a recount of the
 18 votes cast in the precinct or precincts, as provided in
 19 13-16-201, or for an inspection of ballots, as provided in
 20 [section 16]."

21 **NEW SECTION. Section 16. Misplaced or missing ballots.**

22 If during a recount the county recount board discovers that
 23 ballots are misplaced or missing, it may petition the
 24 election administrator to inspect all sealed ballots within
 25 the county precincts to find the misplaced or missing

1 ballots. UPON RECEIVING THE PETITION, THE ELECTION
2 ADMINISTRATOR SHALL INSPECT THE SEALED BALLOTS TO FIND THE
3 MISPLACED OR MISSING BALLOTS. Upon completion of the
4 recount, the misplaced or missing ballots must be placed in
5 their proper precinct and sealed with the remaining ballots.

6 **Section 17.** Section 13-19-106, MCA, is amended to read:

7 "13-19-106. General requirements for mail ballot
8 election. A mail ballot election must be conducted
9 substantially as follows:

10 (1) Official ballots must be prepared and all other
11 initial procedures followed as otherwise provided by law,
12 except that mail ballots are not required to have stubs.

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

16 (3) The elector shall mark the ballot at home and place
17 it in a secrecy envelope.

18 (4) The elector shall then place the secrecy envelope
19 containing his ballot in a return/verification envelope and
20 shall return it by mailing it or delivering it in person to
21 a place of deposit designated by the election administrator
22 so that it is received prior to a specified time on election
23 day.

24 (5) Once returned, election officials shall first
25 qualify the submitted ballot by examining the

1 return/verification envelope to determine whether it is
2 submitted by a qualified elector who has not previously
3 voted.

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

8 (7) After the close of polls on election day, voted
9 ballots must be counted and canvassed as otherwise provided
10 by law."

11 **Section 18.** Section 13-19-206, MCA, is amended to read:

12 "13-19-206. Distributing materials to electors --
13 procedure. For each election conducted under this chapter,
14 the election administrator shall:

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

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

19 (a) an official ballot, except that the election
20 administrator may include separate ballots for each type of
21 election being held concurrently;

22 (b) a secrecy envelope;

23 (c) a return/verification envelope; and

24 (d) complete written instructions for voting and
25 returning ballots; and

1 (3) ensure that each packet is:

2 (a) clearly marked on its face with the words "DO NOT
3 FORWARD,--RETURN--TO--SENDER,--RETURN--POSTAGE--GUARANTEED--"
4 stating the appropriate postal regulation language to
5 prohibit forwarding of the packet;

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

9 (c) deposited in the United States mail with sufficient
10 prepaid postage for it to be delivered to the elector's
11 address."

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

13 "13-19-306. Returning marked ballots -- when -- where.

14 (1) After complying with 13-19-301, an elector or his
15 designee may return his ballot on or before election day by
16 either:

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

19 (b) returning it ~~in--person~~ to any place of deposit
20 designated by the election administrator pursuant to
21 13-19-307.

22 (2) In order to have his ballot counted, each elector
23 must return it in such a manner that it is received prior to
24 8 p.m. on election day."

25 **Section 20.** Section 13-19-308, MCA, is amended to read:

1 "13-19-308. Disposition of ballots returned in person.
2 Ballots returned by the elector in person must be processed
3 as follows:

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

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

9 (b) resolve any questions as to the validity of the
10 ballot; and

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

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

16 (a) keep a log of the names of all electors from whom
17 he receives ballots and the names of the people who deliver
18 the ballots;

19 ~~(b)--have-the-elector-sign-the-log-where--his--name--has~~
20 ~~been-entered;~~

21 ~~(c)--while-the-elector-is-present,--compare-the-signature~~
22 ~~on-the-return/verification-envelope-with-that-entered-in-the~~
23 ~~log-and-resolve-any-discrepancies-with-the-elector;~~

24 ~~(d)~~(b) deposit the unopened return/verification
25 envelope in the sealed ballot transport box provided for

1 that purpose; and

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

7 **Section 21.** Section 13-19-311, MCA, is amended to read:

8 "13-19-311. Valid ballots -- requirements. (1) Only
9 valid ballots may be counted in an election conducted under
10 this chapter.

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

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

15 (b) the elector's signature on the affidavit on the
16 return/verification envelope is verified pursuant to
17 13-19-310; and

18 (c) it is received before 8 p.m. on election day.

19 (3) A ballot is invalid if:

20 (a) more than one ballot is enclosed in a single
21 return/verification or secrecy envelope unless there are
22 multiple elections being held at the same time and there is
23 only one ballot for each election in the envelope; or

24 (b) any identifying marks are placed on the ballot by
25 the elector."

1 **Section 22.** Section 13-19-312, MCA, is amended to read:

2 "13-19-312. Procedure at close of voting. (1) After the
3 close of voting on election day, election officials shall:

4 ~~1~~(a) open the official ballot boxes;

5 ~~2~~(b) open each secrecy envelope, removing the ballot;

6 and

7 ~~3~~(c) proceed to count the votes as otherwise provided
8 by law.

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

13 **Section 23.** Section 13-37-201, MCA, is amended to read:

14 "13-37-201. Campaign treasurer. Except as provided in
15 13-37-206, each candidate and each political committee shall
16 appoint one campaign treasurer and certify the full name and
17 complete address of the campaign treasurer pursuant to this
18 section. A candidate shall file the certification within 5
19 days after becoming a candidate. A political committee shall
20 file the certification, which shall include an
21 organizational statement and set forth the name and address
22 of all other officers, if any, within 5 days after it makes
23 an expenditure or authorizes another person to make an
24 expenditure on its behalf, whichever occurs first. The
25 certification of a candidate or political committee shall be

1 filed with the commissioner and the appropriate county-clerk
 2 and-recorder election administrator as specified for the
 3 filing of reports in 13-37-225."

4 **Section 24.** Section 13-37-225, MCA, is amended to read:

5 "13-37-225. Reports of contributions and expenditures
 6 required. (1) Except as provided in 13-37-206, each
 7 candidate and political committee shall file periodic
 8 reports of contributions and expenditures made by or on the
 9 behalf of a candidate or political committee. All reports
 10 required by this chapter shall be filed with the
 11 commissioner and with the county-clerk-and-recorder election
 12 administrator of the county in which a candidate is a
 13 resident or the political committee has its headquarters.
 14 However, where residency within a district, county, city, or
 15 town is not a prerequisite for being a candidate, copies of
 16 all reports shall be filed with the county--clerk--and
 17 recorder election administrator of the county in which the
 18 election is to be held or, if the election is to be held in
 19 more than one county, with the clerk-and-recorder election
 20 administrator in the county that the commissioner specifies.

21 (2) In lieu of all contribution and expenditure reports
 22 required by this chapter, the commissioner shall accept
 23 copies of the reports filed by candidates for congress and
 24 president of the United States and their political
 25 committees pursuant to the requirements of federal law."

1 **SECTION 25.** SECTION 39-51-204, MCA, IS AMENDED TO READ:

2 "39-51-204. Exclusions from definition of employment.

3 (1) The term "employment" does not include:

4 (a) agricultural labor, except as provided in
 5 39-51-203(8);

6 (b) domestic service in a private home, local college
 7 club, or local chapter of a college fraternity or sorority,
 8 except as provided in 39-51-203(9);

9 (c) service performed as an officer or member of the
 10 crew of a vessel on the navigable waters of the United
 11 States;

12 (d) service performed by an individual in the employ of
 13 that individual's son, daughter, or spouse and service
 14 performed by a child under the age of 21 in the employ of
 15 the child's father or mother;

16 (e) service performed in the employ of any other state
 17 or its political subdivisions or of the United States
 18 government or of an instrumentality of any other state or
 19 states or their political subdivisions or of the United
 20 States, except that national banks organized under the
 21 national banking law shall not be entitled to exemption
 22 under this subsection and shall be subject to this chapter
 23 the same as state banks, provided that such service is
 24 excluded from employment as defined in the Federal
 25 Unemployment Tax Act by section 3306(c)(7) of that act;

1 (f) service with respect to which unemployment
 2 insurance is payable under an unemployment insurance system
 3 established by an act of congress, provided that the
 4 department must enter into agreements with the proper
 5 agencies under such act of congress, which agreements shall
 6 become effective in the manner prescribed in the Montana
 7 Administrative Procedure Act for the adoption of rules, to
 8 provide reciprocal treatment to individuals who have, after
 9 acquiring potential rights to benefits under this chapter,
 10 acquired rights to unemployment insurance under such act of
 11 congress or who have, after acquiring potential rights to
 12 unemployment insurance under such act of congress, acquired
 13 rights to benefits under this chapter;

14 (g) services performed in the delivery and distribution
 15 of newspapers or shopping news from house to house and
 16 business establishments by an individual under the age of 18
 17 years, but not including the delivery or distribution to any
 18 point or points for subsequent delivery or distribution;

19 (h) services performed by real estate, securities, and
 20 insurance salespeople paid solely by commissions and without
 21 guarantee of minimum earnings;

22 (i) service performed in the employ of a school,
 23 college, or university if such service is performed by a
 24 student who is enrolled and is regularly attending classes
 25 at such school, college, or university or by the spouse of

1 such a student if such spouse is advised, at the time such
 2 spouse commences to perform such service, that the
 3 employment of such spouse to perform such service is
 4 provided under a program to provide financial assistance to
 5 such student by such school, college, or university and such
 6 employment will not be covered by any program of
 7 unemployment insurance;

8 (j) service performed by an individual who is enrolled
 9 at a nonprofit or public educational institution, which
 10 normally maintains a regular faculty and curriculum and
 11 normally has a regularly organized body of students in
 12 attendance at the place where its educational activities are
 13 carried on, as a student in a full-time program taken for
 14 credit at such institution which combines academic
 15 instruction with work experience if such service is an
 16 integral part of such program and such institution has so
 17 certified to the employer, except that this subsection shall
 18 not apply to service performed in a program established for
 19 or on behalf of an employer or group of employers;

20 (k) service performed in the employ of a hospital if
 21 such service is performed by a patient of the hospital;

22 (l) services performed by a cosmetologist who is
 23 licensed under Title 37, chapter 31, or a barber who is
 24 licensed under Title 37, chapter 30, and who has
 25 acknowledged in writing that he is not covered by

1 unemployment insurance and workers' compensation and who
 2 contracts with a cosmetological establishment as defined in
 3 37-31-101 or a barbershop as defined in 37-30-101, which
 4 contract shall show the cosmetologist or barber is free from
 5 all control and direction of the owner in the contract and
 6 in fact; receives payment for services from his or her
 7 individual clientele; leases, rents, or furnishes all of his
 8 or her own equipment, skills, or knowledge; and whose
 9 contract gives rise to an action for breach of contract in
 10 the event of contract termination (the existence of a single
 11 license for the cosmetological establishment or barbershop
 12 shall not be construed as a lack of freedom from control or
 13 direction under this subsection);

14 (m) casual labor not in the course of an employer's
 15 trade or business performed in any calendar quarter, unless
 16 the cash remuneration paid for such service is \$50 or more
 17 and such service is performed by an individual who is
 18 regularly employed by such employer to perform such service.
 19 "Regularly employed" means the services are performed during
 20 at least 24 days in the same quarter.

21 (n) services performed for the installation of floor
 22 coverings if the installer:

23 (i) bids or negotiates a contract price based upon work
 24 performed by the yard or by the job;

25 (ii) is paid upon completion of an agreed upon portion

1 of the job or after the job is completed;

2 (iii) may perform services for anyone without
 3 limitation;

4 (iv) may accept or reject any job;

5 (v) furnishes substantially all tools and equipment
 6 necessary to provide the services; and

7 (vi) works under a written contract that:

8 (A) gives rise to a breach of contract action if the
 9 installer or any other party fails to perform the contract
 10 obligations;

11 (B) states the installer is not covered by unemployment
 12 insurance; and

13 (C) requires the installer to provide a current
 14 workers' compensation policy or to obtain an exemption from
 15 workers' compensation requirements;

16 (o) service performed by an election judge pursuant to
 17 Title 13, chapter 4.

18 (2) "Employment" does not include elected public
 19 officials.

20 (3) For the purposes of 39-51-203(6), the term
 21 "employment" does not apply to service performed:

22 (a) in the employ of a church or convention or
 23 association of churches or an organization which is operated
 24 primarily for religious purposes and which is operated,
 25 supervised, controlled, or principally supported by a church

1 or convention or association of churches;

2 (b) by a duly ordained, commissioned, or licensed
3 minister of a church in the exercise of the church's
4 ministry or by a member of a religious order in the exercise
5 of duties required by such order;

6 (c) in a facility conducted for the purpose of carrying
7 out a program of rehabilitation for individuals whose
8 earning capacity is impaired by age or physical or mental
9 deficiency or injury or providing remunerative work for
10 individuals who, because of their impaired physical or
11 mental capacity, cannot be readily absorbed in the
12 competitive labor market by an individual receiving such
13 rehabilitation or remunerative work;

14 (d) as part of an unemployment work-relief or
15 work-training program assisted or financed in whole or in
16 part by a federal agency or any agency of a state or
17 political subdivision thereof by an individual receiving
18 such work relief or work training; or

19 (e) for a state prison or other state correctional or
20 custodial institution by an inmate of that institution."

21 NEW SECTION. Section 26. Repealer. Sections 7-13-2237,
22 7-13-2238, 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, and
23 7-13-2245, MCA, are repealed.

24 NEW SECTION. Section 27. Codification instruction. (1)
25 [Section 9] is intended to be codified as an integral part

1 of Title 13, chapter 10, part 5, and the provisions of Title
2 13, chapter 10, part 5, apply to [section 9].

3 (2) [Section 16] is intended to be codified as an
4 integral part of Title 13, chapter 16, part 4, and the
5 provisions of Title 13, chapter 16, part 4, apply to
6 [section 16].

-End-

1 SENATE BILL NO. 157

2 INTRODUCED BY VAUGHN, J. BROWN, BECKER, COCCHIARELLA

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO ELECTIONS; REVISING THE LAWS RELATING TO
7 COUNTY WATER AND SEWER DISTRICT ELECTIONS; PROHIBITING
8 INDEPENDENT CANDIDATES FROM BEING ASSOCIATED WITH A
9 POLITICAL PARTY FOR 1 YEAR PRIOR TO SEEKING OFFICE; ALLOWING
10 FOR INSPECTION OF BALLOTS DURING A CANVASS; PROVIDING FOR
11 STAGGERED TERMS FOR FIRE DISTRICT TRUSTEES; EXEMPTING
12 ELECTION JUDGES FROM UNEMPLOYMENT INSURANCE COVERAGE;
13 AMENDING SECTIONS 7-4-2611, 7-13-2214, 7-13-2225, 7-13-2241,
14 7-13-2247, 7-33-2106, 13-4-106, 13-10-503, 13-13-114,
15 13-13-115, 13-13-212, 13-14-115, 13-15-111, 13-15-403,
16 13-19-106, 13-19-206, 13-19-306, 13-19-308, 13-19-311,
17 13-19-312, 13-37-201, AND 13-37-225, AND 39-51-204, MCA; AND
18 REPEALING SECTIONS 7-13-2237, 7-13-2238, 7-13-2239,
19 7-13-2240, 7-13-2242, 7-13-2244, AND 7-13-2245, MCA."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:22 **Section 1.** Section 7-4-2611, MCA, is amended to read:

23 "7-4-2611. Role and duties of county clerk and election
24 administrator. (1) The county clerk of any county is also
25 clerk of the county commissioners and ex officio recorder.

1 Any duty imposed by law upon such officer, either as county
2 clerk, clerk of the county commissioners, or recorder, shall
3 be performed by the county clerk, and any official act
4 performed or certified by the county clerk shall be as valid
5 and effectual as if performed and certified to by him as
6 clerk of the county commissioners or as recorder.

7 (2) The county clerk must:

8 (a) take charge of and safely keep or dispose of
9 according to law all books, papers, maps, and records which
10 may be filed or deposited in his office;

11 (b) record all the proceedings of the board;

12 (c) make full entries of all its resolutions and
13 decisions on all questions concerning the raising of money
14 for and the allowance of accounts against the county;

15 (d) record the vote of each member on any question upon
16 which there is a division or at the request of any member
17 present;

18 (e) sign all orders made and warrants issued by order
19 of the board for the payment of money and certify the same
20 to the county treasurer;

21 (f) record the reports of the county treasurer of the
22 receipts and disbursements of the county;

23 (g) preserve and file all accounts acted upon by the
24 board;

25 (h) preserve and file all petitions and applications

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1 for franchises and record the action of the board thereon;

2 (i) record all orders levying taxes;

3 (j) designate upon every account allowed by the board
4 the amount allowed and deliver to any person who may demand
5 it a certified copy of any record in his office or any
6 account on file therein;

7 (k) as often as a new township is organized or the
8 boundaries of any township are altered, immediately make out
9 and transmit to the secretary of state a certified statement
10 of the names and boundaries and the boundaries of any
11 township altered;

12 (l) keep such other records and books and perform such
13 other duties as are prescribed by law or by rule or order of
14 the board.

15 (3) ~~A---county---clerk---and---recorder~~ An election
16 administrator shall file, code, and cross-index all reports
17 and statements filed as prescribed by the commissioner of
18 political practices.

19 (4) ~~A---county---clerk---and---recorder~~ An election
20 administrator shall make statements and other information
21 filed under the provisions of Title 13, chapters 35, 36, and
22 37, in his office available for public inspection and
23 copying during regular office hours and make copying
24 facilities available free of charge or at a charge not to
25 exceed actual cost."

1 **Section 2.** Section 7-13-2214, MCA, is amended to read:

2 **"7-13-2214. Order creating district upon sufficient**
3 **favorable vote.** (1) If at least 40% of all registered voters
4 residing within the proposed district have voted and if a
5 majority of the votes cast at such election in each
6 municipal corporation or part thereof and in the
7 unincorporated territory of each county included in such
8 proposed district shall be in favor of organizing such
9 county district, said board of county commissioners of each
10 such county shall, by an order entered on its minutes,
11 declare the territory enclosed within the proposed
12 boundaries duly organized as a county water and/or sewer
13 district under the name theretofore designated.

14 (2) The ~~county--clerk~~ election administrator of each
15 such county shall immediately cause to be filed with the
16 secretary of state and shall cause to be recorded in the
17 office of the county clerk and recorder of the county or
18 each county in which such district is situated a certificate
19 stating that such a proposition was adopted."

20 **Section 3.** Section 7-13-2225, MCA, is amended to read:

21 **"7-13-2225. Combination of elections.** (1) The board of
22 county commissioners in its discretion may combine in one
23 election the election on the formation of the district, the
24 election of directors, and the election on incurring a
25 bonded indebtedness so that the electors of the district may

1 vote on all of these matters on the same date and at the
2 same time.

3 (2) If the elections are combined, the board of county
4 commissioners shall so declare by resolution containing the
5 provisions required by 7-13-2321. If the elections are
6 combined, the notice of the election shall contain the names
7 of the candidates and the details concerning the bonded
8 indebtedness.

9 (3) Candidates for the office of director shall be
10 nominated in the manner required by ~~7-13-2235--through~~
11 ~~7-13-2247~~ 7-13-2241 and 7-13-2246."

12 **Section 4.** Section 7-13-2241, MCA, is amended to read:
13 "7-13-2241. Presentation Filing of petition of
14 nomination. (1) A petition of nomination, ~~consisting-of--not~~
15 ~~less--than--five--individual-certificates~~ signed by at least
16 five electors of the district for any one candidate, may be
17 ~~presented--to~~ filed with the election administrator not
18 earlier than ~~90~~ 135 days or later than 75 days before the
19 election. The election administrator shall endorse thereon
20 the date upon which the petition was presented to him.

21 (2) If the district lies in more than one county, the
22 petition for nomination shall be presented to the election
23 administrator whose county contains the largest percentage
24 of the territory of the district and the election
25 administrator shall fulfill all duties assigned to election

1 administrators in elections under this part and part 23.

2 (3) If the petition conforms to this section, the
3 election administrator shall place the name of the
4 petitioner on the ballot as a candidate for director of the
5 district."

6 **Section 5.** Section 7-13-2247, MCA, is amended to read:
7 "7-13-2247. Preservation of petitions and-certificates.
8 The county clerk shall preserve in his office for a period
9 of 2 years all petitions of nomination ~~and-all-certificates~~
10 ~~belonging-thereto~~ filed under ~~7-13-2244~~ 7-13-2241."

11 **Section 6.** Section 7-33-2106, MCA, is amended to read:
12 "7-33-2106. Details relating to board of trustees of
13 fire district. (1) (a) The five trustees initially appointed
14 by the county commissioners shall hold staggered terms of
15 office until their successors are elected or appointed and
16 qualified as hereinafter provided.

17 (b) The initial trustees' terms of office shall be
18 drawn by lot and include:

- 19 (i) 3 years for one trustee;
- 20 (ii) 2 years for two trustees; and
- 21 (iii) 1 year for two trustees.
- 22 (c) Upon expiration of the terms provided in subsection
23 (1)(b), each trustee shall serve a 3-year term of office.

24 (2) Trustees shall be elected as provided in subsection
25 (3) of this section, 13-1-104(3), and 13-1-401 or appointed

1 as provided in subsection (4) of this section. The term of
 2 office shall be 3 years beginning at the first district
 3 meeting following their election or appointment and
 4 continuing until their successors are elected or appointed
 5 and qualified. Appointments to fill vacancies shall be made
 6 by the county governing body and appointees shall hold
 7 office until the next regular election. All electors, as
 8 defined in Title 13, who reside in the district are eligible
 9 to vote in the election, including any holder of title to
 10 lands within the district who presents a proof of interest
 11 in such land at the polling place, regardless of whether he
 12 is registered to vote.

13 (3) Candidates for the office of trustee of the fire
 14 district to be filled by election may be nominated by
 15 petition filed with the election administrator or deputy
 16 election administrator at least 75 days before the election
 17 day and signed by at least five electors of the district.

18 (4) If no nominations are made for one or more trustee
 19 offices, the county governing body shall appoint one or more
 20 trustees as necessary to fill those offices.

21 (5) The trustees shall organize by choosing a chairman
 22 and appointing one member to act as secretary."

23 **Section 7.** Section 13-4-106, MCA, is amended to read:

24 "13-4-106. Compensation of judges. (1) Except
 25 as provided in subsection (2), election judges shall be paid

1 at the prevailing federal minimum wage for the number of
 2 hours worked during an election plus the number of hours
 3 spent at the instruction session. Mileage may be paid to
 4 election judges for attending instruction sessions. ELECTION
 5 JUDGES ARE EXEMPT FROM UNEMPLOYMENT INSURANCE COVERAGE FOR
 6 SERVICES PERFORMED PURSUANT TO THIS CHAPTER.

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

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

14 **Section 8.** Section 13-10-503, MCA, is amended to read:

15 "13-10-503. Filing deadlines. (1) A petition for
 16 nomination, accompanied by the required filing fee, shall be
 17 filed with the same officer with whom other nominations for
 18 the office sought are filed. Petitions must be submitted, at
 19 least 1 week before the deadline for filing, to the election
 20 administrator in the county where the signer resides for
 21 verification and certification by the procedures provided in
 22 13-27-303 through 13-27-306. In the event there are
 23 insufficient signatures on the petition, additional
 24 signatures may be submitted before the deadline for filing.

25 (2) Except as provided in 13-10-504, each petition

1 shall be filed ~~on--or~~ before the ~~filing-deadline-for-the~~
2 scheduled primary election or the filing deadline for the
3 special or general election if no primary election is
4 scheduled."

5 NEW SECTION. **Section 9.** Independent candidates --
6 association with political parties not allowed. (1) A person
7 seeking office as an independent candidate may not be
8 associated with a political party for 1 year prior to the
9 submission of his nomination petition.

10 (2) For the purposes of subsection (1), "associated
11 with a political party" means ~~having-made-contributions-to-a~~
12 ~~party,~~ having run for office as a partisan candidate, or
13 having held an office with a political party designation.

14 **Section 10.** Section 13-13-114, MCA, is amended to read:

15 "13-13-114. **Marking precinct register book before**
16 **elector votes.** (1) Before an elector is permitted to receive
17 a ballot or vote, he shall sign his name on the place
18 designated in the precinct register. Before signing the
19 register, the elector shall state his name and current
20 address. If the name or address is not as listed in the
21 precinct register, the elector must complete a transfer form
22 or new registration form to correct the information. The
23 election judges shall write "transfer form" or "registration
24 form" beside the name of any elector submitting a form. No
25 elector may sign the precinct register unless his name and

1 address are the same as shown in the register or the proper
2 corrections have been made.

3 ~~{2}--The election judges shall require--an--elector--not~~
4 ~~able-to-sign-his-name-to-produce-two-electors-who-shall-sign~~
5 ~~an--affidavit--stating--that--the--elector-is-the-individual~~
6 ~~whose-name-and-address--appears--in--the--precinct--register~~
7 ~~before--one--or--more--of--the--election--judges--on--a-form~~
8 ~~prescribed-by-the-secretary-of-state--The-affidavit-shall-be~~
9 ~~filed-by-the-election-judges-and--returned--to--the--election~~
10 ~~administrator--with--the-returns-of-the-election--One-of-the~~
11 ~~judges-shall-write-the-electors-name, noting--the--fact--of~~
12 ~~his--inability--to--sign,--and-the-names-of-the-two-electors~~
13 ~~signing-the-affidavit.~~

14 (2) If the elector is not able to sign his name to the
15 precinct register, a fingerprint or other identifying mark
16 may be used.

17 (3) If the elector fails or refuses to sign his name
18 or, if unable to write, fails to procure two electors who
19 will take the oath required provide a fingerprint or other
20 identifying mark, he may not vote."

21 **Section 11.** Section 13-13-115, MCA, is amended to read:

22 "13-13-115. **Pollbooks.** (1) In precincts using paper
23 ballots, the name of each elector who votes shall be entered
24 in a pollbook and numbered in the order voting so that the
25 number corresponds with the number on the stubs of the

1 ballots given the elector or an election judge may use a
 2 numbering device to stamp the number of the ballot stub next
 3 to the name of the elector in a precinct register/pollbook.

4 (2) In precincts where machines or devices are used, a
 5 pollbook need be used only for paper ballots. The election
 6 administrator shall provide such precincts with some method
 7 of recording the number of individuals voting."

8 **Section 12.** Section 13-13-212, MCA, is amended to read:

9 **"13-13-212. Application for absentee ballot.** (1)
 10 Application for absentee ballots shall be made by a written
 11 request signed by the applicant and addressed to or
 12 transmitted by facsimile to the election administrator of
 13 the applicant's county of residence.

14 (2) Application for an absentee ballot may be made by
 15 any elector in the United States service by the federal post
 16 card application or by any written request signed by the
 17 applicant and addressed to or transmitted by facsimile to
 18 the election administrator of the applicant's county of
 19 residence.

20 (3) If an elector requests an absentee ballot because
 21 of a sudden illness or health emergency, the application for
 22 an absentee ballot may be made by written request signed by
 23 the elector at the time the ballot is delivered in person by
 24 the special absentee election board provided for in
 25 13-13-225. Such elector may request by telephone, facsimile

1 transmission, or other means to have a ballot and
 2 application personally delivered to him by the special
 3 absentee election board at his place of confinement,
 4 hospitalization, or residence within the county. Such a
 5 request may be made no later than noon on election day."

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

7 **"13-14-115. Preparation and distribution of nonpartisan**
 8 **primary ballots.** (1) The election administrators shall
 9 arrange, prepare, and distribute primary ballots for
 10 nonpartisan offices, designated "nonpartisan primary
 11 ballots". They shall be arranged as other primary ballots
 12 and be without political designation.

13 (2) The number of nonpartisan primary ballots and
 14 sample ballots furnished shall be the same as other primary
 15 ballots.

16 (3) (a) The governing-body election administrator of a
 17 political subdivision may determine that a primary need not
 18 be held if:

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

22 (ii) the number of candidates in excess of twice the
 23 number to be elected is not more than one for any office on
 24 the ballot; and.

25 (b) If the election administrator determines that a

1 primary need not be held pursuant to subsection (3)(a), he
 2 must give notice to the governing body that no primary
 3 election will be held.

4 ~~(e)(4)~~ The governing body may require that a
 5 primary election be held if it passes a resolution not more
 6 than 7 ~~14~~ 10 days after the close of filing by candidates
 7 for election, stating that a primary election need-not shall
 8 be held."

9 **Section 14.** Section 13-15-111, MCA, is amended to read:

10 "13-15-111. Write-in elections -- general election. (1)

11 An individual elected by having his name written in at the
 12 general election and receiving the largest number of votes
 13 shall:

14 (a) file with the secretary of state or election
 15 administrator, not later than 10 days after the official
 16 canvass, a written declaration indicating his acceptance of
 17 the position for which he was elected; and

18 (b) comply with the provisions of 13-37-225; and

19 (c) pay the required filing fee or comply with
 20 13-10-203 if indigent.

21 (2) If an individual fails to file the declaration as
 22 required under subsection (1)(a), he may not assume the
 23 position for which he was elected."

24 **Section 15.** Section 13-15-403, MCA, is amended to read:

25 "13-15-403. Canvass to be public -- nonessentials to be

1 disregarded -- petition for recount. (1) The canvass shall
 2 be public. It shall proceed by opening the returns, auditing
 3 the tally books or other records of votes cast, determining
 4 the vote for each individual and for and against each ballot
 5 issue from each precinct, compiling totals, and declaring or
 6 certifying the results.

7 (2) The board shall record all write-in votes shown in
 8 the returns from each precinct.

9 (3) The returns may not be rejected because of failure
 10 to show who administered the oath to the election judges,
 11 failure to complete all the certificates in a pollbook, or
 12 because of failure of any other act making up the returns
 13 that is not essential to determine for whom the votes were
 14 cast.

15 (4) If during a canvass the board finds an error in a
 16 precinct or precincts affecting the accuracy of vote totals,
 17 the board immediately may petition for a recount of the
 18 votes cast in the precinct or precincts, as provided in
 19 13-16-201, or for an inspection of ballots, as provided in
 20 [section 16]."

21 **NEW SECTION. Section 16. Misplaced or missing ballots.**

22 If during a recount the county recount board discovers that
 23 ballots are misplaced or missing, it may petition the
 24 election administrator to inspect all sealed ballots within
 25 the county precincts to find the misplaced or missing

1 ballots. UPON RECEIVING THE PETITION, THE ELECTION
 2 ADMINISTRATOR SHALL INSPECT THE SEALED BALLOTS TO FIND THE
 3 MISPLACED OR MISSING BALLOTS. Upon completion of the
 4 recount, the misplaced or missing ballots must be placed in
 5 their proper precinct and sealed with the remaining ballots.

6 **Section 17.** Section 13-19-106, MCA, is amended to read:

7 "13-19-106. General requirements for mail ballot
 8 election. A mail ballot election must be conducted
 9 substantially as follows:

10 (1) Official ballots must be prepared and all other
 11 initial procedures followed as otherwise provided by law,
 12 except that mail ballots are not required to have stubs.

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

16 (3) The elector shall mark the ballot at home and place
 17 it in a secrecy envelope.

18 (4) The elector shall then place the secrecy envelope
 19 containing his ballot in a return/verification envelope and
 20 shall return it by mailing it or delivering it in person to
 21 a place of deposit designated by the election administrator
 22 so that it is received prior to a specified time on election
 23 day.

24 (5) Once returned, election officials shall first
 25 qualify the submitted ballot by examining the

1 return/verification envelope to determine whether it is
 2 submitted by a qualified elector who has not previously
 3 voted.

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

8 (7) After the close of polls on election day, voted
 9 ballots must be counted and canvassed as otherwise provided
 10 by law."

11 **Section 18.** Section 13-19-206, MCA, is amended to read:

12 "13-19-206. Distributing materials to electors --
 13 procedure. For each election conducted under this chapter,
 14 the election administrator shall:

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

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

19 (a) an official ballot, except that the election
 20 administrator may include separate ballots for each type of
 21 election being held concurrently;

22 (b) a secrecy envelope;

23 (c) a return/verification envelope; and

24 (d) complete written instructions for voting and
 25 returning ballots; and

(3) ensure that each packet is:

(a) clearly marked on its face with the words "~~DO NOT~~
~~FORWARD--RETURN--TO--SENDER--RETURN--POSTAGE--GUARANTEED--~~"
stating the appropriate postal regulation language to
prohibit forwarding of the packet;

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

(c) deposited in the United States mail with sufficient
prepaid postage for it to be delivered to the elector's
address."

Section 19. 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
designee may return his 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 in-person to any place of deposit
designated by the election administrator pursuant to
13-19-307.

(2) In order to have his ballot counted, each elector
must return it in such a manner that it is received prior to
8 p.m. on election day."

Section 20. Section 13-19-308, MCA, is amended to read:

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

Ballots returned by the elector 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 is present, officials shall:

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

(b) resolve any questions as to the validity of the
ballot; and

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

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

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

~~(b) have the elector sign the log where his name has~~
~~been entered;~~

~~(c) while the elector is present, compare the signature~~
~~on the return/verification envelope with that entered in the~~
~~log and resolve any discrepancies with the elector;~~

~~(d)~~ (b) deposit the unopened return/verification
envelope in the sealed ballot transport box provided for

1 that purpose; and

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

7 **Section 21.** Section 13-19-311, MCA, is amended to read:

8 "13-19-311. **Valid ballots -- requirements.** (1) Only
9 valid ballots may be counted in an election conducted under
10 this chapter.

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

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

15 (b) the elector's signature on the affidavit on the
16 return/verification envelope is verified pursuant to
17 13-19-310; and

18 (c) it is received before 8 p.m. on election day.

19 (3) A ballot is invalid if:

20 (a) more than one ballot is enclosed in a single
21 return/verification or secrecy envelope unless there are
22 multiple elections being held at the same time and there is
23 only one ballot for each election in the envelope; or

24 (b) any identifying marks are placed on the ballot by
25 the elector."

1 **Section 22.** Section 13-19-312, MCA, is amended to read:

2 "13-19-312. **Procedure at close of voting.** (1) After the
3 close of voting on election day, election officials shall:

4 ~~f~~(a) open the official ballot boxes;

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

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

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

13 **Section 23.** Section 13-37-201, MCA, is amended to read:

14 "13-37-201. **Campaign treasurer.** Except as provided in
15 13-37-206, each candidate and each political committee shall
16 appoint one campaign treasurer and certify the full name and
17 complete address of the campaign treasurer pursuant to this
18 section. A candidate shall file the certification within 5
19 days after becoming a candidate. A political committee shall
20 file the certification, which shall include an
21 organizational statement and set forth the name and address
22 of all other officers, if any, within 5 days after it makes
23 an expenditure or authorizes another person to make an
24 expenditure on its behalf, whichever occurs first. The
25 certification of a candidate or political committee shall be

1 filed with the commissioner and the appropriate ~~county-clerk~~
 2 ~~and--recorder~~ election administrator as specified for the
 3 filing of reports in 13-37-225."

4 **Section 24.** Section 13-37-225, MCA, is amended to read:
 5 "13-37-225. Reports of contributions and expenditures
 6 required. (1) Except as provided in 13-37-206, each
 7 candidate and political committee shall file periodic
 8 reports of contributions and expenditures made by or on the
 9 behalf of a candidate or political committee. All reports
 10 required by this chapter shall be filed with the
 11 commissioner and with the ~~county-clerk-and-recorder~~ election
 12 administrator of the county in which a candidate is a
 13 resident or the political committee has its headquarters.
 14 However, where residency within a district, county, city, or
 15 town is not a prerequisite for being a candidate, copies of
 16 all reports shall be filed with the ~~county--clerk-and~~
 17 ~~recorder~~ election administrator of the county in which the
 18 election is to be held or, if the election is to be held in
 19 more than one county, with the ~~clerk-and--recorder~~ election
 20 administrator in the county that the commissioner specifies.

21 (2) In lieu of all contribution and expenditure reports
 22 required by this chapter, the commissioner shall accept
 23 copies of the reports filed by candidates for congress and
 24 president of the United States and their political
 25 committees pursuant to the requirements of federal law."

1 **SECTION 25.** SECTION 39-51-204, MCA, IS AMENDED TO READ:

2 **"39-51-204. Exclusions from definition of employment.**

3 (1) The term "employment" does not include:

4 (a) agricultural labor, except as provided in
 5 39-51-203(8);

6 (b) domestic service in a private home, local college
 7 club, or local chapter of a college fraternity or sorority,
 8 except as provided in 39-51-203(9);

9 (c) service performed as an officer or member of the
 10 crew of a vessel on the navigable waters of the United
 11 States;

12 (d) service performed by an individual in the employ of
 13 that individual's son, daughter, or spouse and service
 14 performed by a child under the age of 21 in the employ of
 15 the child's father or mother;

16 (e) service performed in the employ of any other state
 17 or its political subdivisions or of the United States
 18 government or of an instrumentality of any other state or
 19 states or their political subdivisions or of the United
 20 States, except that national banks organized under the
 21 national banking law shall not be entitled to exemption
 22 under this subsection and shall be subject to this chapter
 23 the same as state banks, provided that such service is
 24 excluded from employment as defined in the Federal
 25 Unemployment Tax Act by section 3306(c)(7) of that act;

1 (f) service with respect to which unemployment
 2 insurance is payable under an unemployment insurance system
 3 established by an act of congress, provided that the
 4 department must enter into agreements with the proper
 5 agencies under such act of congress, which agreements shall
 6 become effective in the manner prescribed in the Montana
 7 Administrative Procedure Act for the adoption of rules, to
 8 provide reciprocal treatment to individuals who have, after
 9 acquiring potential rights to benefits under this chapter,
 10 acquired rights to unemployment insurance under such act of
 11 congress or who have, after acquiring potential rights to
 12 unemployment insurance under such act of congress, acquired
 13 rights to benefits under this chapter;

14 (g) services performed in the delivery and distribution
 15 of newspapers or shopping news from house to house and
 16 business establishments by an individual under the age of 18
 17 years, but not including the delivery or distribution to any
 18 point or points for subsequent delivery or distribution;

19 (h) services performed by real estate, securities, and
 20 insurance salespeople paid solely by commissions and without
 21 guarantee of minimum earnings;

22 (i) service performed in the employ of a school,
 23 college, or university if such service is performed by a
 24 student who is enrolled and is regularly attending classes
 25 at such school, college, or university or by the spouse of

1 such a student if such spouse is advised, at the time such
 2 spouse commences to perform such service, that the
 3 employment of such spouse to perform such service is
 4 provided under a program to provide financial assistance to
 5 such student by such school, college, or university and such
 6 employment will not be covered by any program of
 7 unemployment insurance;

8 (j) service performed by an individual who is enrolled
 9 at a nonprofit or public educational institution, which
 10 normally maintains a regular faculty and curriculum and
 11 normally has a regularly organized body of students in
 12 attendance at the place where its educational activities are
 13 carried on, as a student in a full-time program taken for
 14 credit at such institution which combines academic
 15 instruction with work experience if such service is an
 16 integral part of such program and such institution has so
 17 certified to the employer, except that this subsection shall
 18 not apply to service performed in a program established for
 19 or on behalf of an employer or group of employers;

20 (k) service performed in the employ of a hospital if
 21 such service is performed by a patient of the hospital;

22 (l) services performed by a cosmetologist who is
 23 licensed under Title 37, chapter 31, or a barber who is
 24 licensed under Title 37, chapter 30, and who has
 25 acknowledged in writing that he is not covered by

1 unemployment insurance and workers' compensation and who
 2 contracts with a cosmetological establishment as defined in
 3 37-31-101 or a barbershop as defined in 37-30-101, which
 4 contract shall show the cosmetologist or barber is free from
 5 all control and direction of the owner in the contract and
 6 in fact; receives payment for services from his or her
 7 individual clientele; leases, rents, or furnishes all of his
 8 or her own equipment, skills, or knowledge; and whose
 9 contract gives rise to an action for breach of contract in
 10 the event of contract termination (the existence of a single
 11 license for the cosmetological establishment or barbershop
 12 shall not be construed as a lack of freedom from control or
 13 direction under this subsection);

14 (m) casual labor not in the course of an employer's
 15 trade or business performed in any calendar quarter, unless
 16 the cash remuneration paid for such service is \$50 or more
 17 and such service is performed by an individual who is
 18 regularly employed by such employer to perform such service.
 19 "Regularly employed" means the services are performed during
 20 at least 24 days in the same quarter.

21 (n) services performed for the installation of floor
 22 coverings if the installer:

23 (i) bids or negotiates a contract price based upon work
 24 performed by the yard or by the job;

25 (ii) is paid upon completion of an agreed upon portion

1 of the job or after the job is completed;

2 (iii) may perform services for anyone without
 3 limitation;

4 (iv) may accept or reject any job;

5 (v) furnishes substantially all tools and equipment
 6 necessary to provide the services; and

7 (vi) works under a written contract that:

8 (A) gives rise to a breach of contract action if the
 9 installer or any other party fails to perform the contract
 10 obligations;

11 (B) states the installer is not covered by unemployment
 12 insurance; and

13 (C) requires the installer to provide a current
 14 workers' compensation policy or to obtain an exemption from
 15 workers' compensation requirements;

16 (o) service performed by an election judge pursuant to
 17 Title 13, chapter 4.

18 (2) "Employment" does not include elected public
 19 officials.

20 (3) For the purposes of 39-51-203(6), the term
 21 "employment" does not apply to service performed:

22 (a) in the employ of a church or convention or
 23 association of churches or an organization which is operated
 24 primarily for religious purposes and which is operated,
 25 supervised, controlled, or principally supported by a church

1 or convention or association of churches;

2 (b) by a duly ordained, commissioned, or licensed
3 minister of a church in the exercise of the church's
4 ministry or by a member of a religious order in the exercise
5 of duties required by such order;

6 (c) in a facility conducted for the purpose of carrying
7 out a program of rehabilitation for individuals whose
8 earning capacity is impaired by age or physical or mental
9 deficiency or injury or providing remunerative work for
10 individuals who, because of their impaired physical or
11 mental capacity, cannot be readily absorbed in the
12 competitive labor market by an individual receiving such
13 rehabilitation or remunerative work;

14 (d) as part of an unemployment work-relief or
15 work-training program assisted or financed in whole or in
16 part by a federal agency or any agency of a state or
17 political subdivision thereof by an individual receiving
18 such work relief or work training; or

19 (e) for a state prison or other state correctional or
20 custodial institution by an inmate of that institution."

21 NEW SECTION. **Section 26.** Repealer. Sections 7-13-2237,
22 7-13-2238, 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, and
23 7-13-2245, MCA, are repealed.

24 NEW SECTION. **Section 27.** Codification instruction. (1)
25 [Section 9] is intended to be codified as an integral part

1 of Title 13, chapter 10, part 5, and the provisions of Title
2 13, chapter 10, part 5, apply to [section 9].

3 (2) [Section 16] is intended to be codified as an
4 integral part of Title 13, chapter 16, part 4, and the
5 provisions of Title 13, chapter 16, part 4, apply to
6 [section 16].

-End-

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 157 (third reading copy -- blue) be concurred in as amended .

Signed: Jan Brown
Jan Brown, Chairman

Carried by: Rep. Cocchiarella

And, that such amendments read:

1. Title, lines 11 and 12.
Following: "TRUSTEES;" on line 11
Strike: "EXEMPTING" on line 11 and line 12 in its entirety
2. Title, line 17.
Following: "AND"
Insert: "AND"
Following: "13-37-225,"
Strike: "AND 39-51-204,"
3. Page 22, line 1 through page 27, line 20.
Strike: section 25 in its entirety
Renumber: subsequent sections

SB 157

HOUSE

1 SENATE BILL NO. 157

2 INTRODUCED BY VAUGHN, J. BROWN, BECKER, COCCHIARELLA

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 LAWS RELATING TO ELECTIONS; REVISING THE LAWS RELATING TO
7 COUNTY WATER AND SEWER DISTRICT ELECTIONS; PROHIBITING
8 INDEPENDENT CANDIDATES FROM BEING ASSOCIATED WITH A
9 POLITICAL PARTY FOR 1 YEAR PRIOR TO SEEKING OFFICE; ALLOWING
10 FOR INSPECTION OF BALLOTS DURING A CANVASS; PROVIDING FOR
11 STAGGERED TERMS FOR FIRE DISTRICT TRUSTEES; EXEMPTING
12 ELECTION--JUDGES--FROM--UNEMPLOYMENT---INSURANCE---COVERAGE,
13 AMENDING SECTIONS 7-4-2611, 7-13-2214, 7-13-2225, 7-13-2241,
14 7-13-2247, 7-33-2106, 13-4-106, 13-10-503, 13-13-114,
15 13-13-115, 13-13-212, 13-14-115, 13-15-111, 13-15-403,
16 13-19-106, 13-19-206, 13-19-306, 13-19-308, 13-19-311,
17 13-19-312, 13-37-201, AND AND 13-37-225, AND-39-51-204, MCA;
18 AND REPEALING SECTIONS 7-13-2237, 7-13-2238, 7-13-2239,
19 7-13-2240, 7-13-2242, 7-13-2244, AND 7-13-2245, MCA."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 Section 1. Section 7-4-2611, MCA, is amended to read:

23 "7-4-2611. Role and duties of county clerk and election
24 administrator. (1) The county clerk of any county is also
25 clerk of the county commissioners and ex officio recorder.

1 Any duty imposed by law upon such officer, either as county
2 clerk, clerk of the county commissioners, or recorder, shall
3 be performed by the county clerk, and any official act
4 performed or certified by the county clerk shall be as valid
5 and effectual as if performed and certified to by him as
6 clerk of the county commissioners or as recorder.

7 (2) The county clerk must:

8 (a) take charge of and safely keep or dispose of
9 according to law all books, papers, maps, and records which
10 may be filed or deposited in his office;

11 (b) record all the proceedings of the board;

12 (c) make full entries of all its resolutions and
13 decisions on all questions concerning the raising of money
14 for and the allowance of accounts against the county;

15 (d) record the vote of each member on any question upon
16 which there is a division or at the request of any member
17 present;

18 (e) sign all orders made and warrants issued by order
19 of the board for the payment of money and certify the same
20 to the county treasurer;

21 (f) record the reports of the county treasurer of the
22 receipts and disbursements of the county;

23 (g) preserve and file all accounts acted upon by the
24 board;

25 (h) preserve and file all petitions and applications

REFERENCE BILL

1 for franchises and record the action of the board thereon;

2 (i) record all orders levying taxes;

3 (j) designate upon every account allowed by the board
4 the amount allowed and deliver to any person who may demand
5 it a certified copy of any record in his office or any
6 account on file therein;

7 (k) as often as a new township is organized or the
8 boundaries of any township are altered, immediately make out
9 and transmit to the secretary of state a certified statement
10 of the names and boundaries and the boundaries of any
11 township altered;

12 (l) keep such other records and books and perform such
13 other duties as are prescribed by law or by rule or order of
14 the board.

15 (3) ~~A---county---clerk---and---recorder~~ An election
16 administrator shall file, code, and cross-index all reports
17 and statements filed as prescribed by the commissioner of
18 political practices.

19 (4) ~~A---county---clerk---and---recorder~~ An election
20 administrator shall make statements and other information
21 filed under the provisions of Title 13, chapters 35, 36, and
22 37, in his office available for public inspection and
23 copying during regular office hours and make copying
24 facilities available free of charge or at a charge not to
25 exceed actual cost."

1 **Section 2.** Section 7-13-2214, MCA, is amended to read:

2 "7-13-2214. **Order creating district upon sufficient**
3 **favorable vote.** (1) If at least 40% of all registered voters
4 residing within the proposed district have voted and if a
5 majority of the votes cast at such election in each
6 municipal corporation or part thereof and in the
7 unincorporated territory of each county included in such
8 proposed district shall be in favor of organizing such
9 county district, said board of county commissioners of each
10 such county shall, by an order entered on its minutes,
11 declare the territory enclosed within the proposed
12 boundaries duly organized as a county water and/or sewer
13 district under the name theretofore designated.

14 (2) The ~~county-clerk~~ election administrator of each
15 such county shall immediately cause to be filed with the
16 secretary of state and shall cause to be recorded in the
17 office of the ~~county clerk and recorder~~ of the county or
18 each county in which such district is situated a certificate
19 stating that such a proposition was adopted."

20 **Section 3.** Section 7-13-2225, MCA, is amended to read:

21 "7-13-2225. **Combination of elections.** (1) The board of
22 county commissioners in its discretion may combine in one
23 election the election on the formation of the district, the
24 election of directors, and the election on incurring a
25 bonded indebtedness so that the electors of the district may

1 vote on all of these matters on the same date and at the
2 same time.

3 (2) If the elections are combined, the board of county
4 commissioners shall so declare by resolution containing the
5 provisions required by 7-13-2321. If the elections are
6 combined, the notice of the election shall contain the names
7 of the candidates and the details concerning the bonded
8 indebtedness.

9 (3) Candidates for the office of director shall be
10 nominated in the manner required by ~~7-13-2235--through~~
11 ~~7-13-2247~~ 7-13-2241 and 7-13-2246."

12 **Section 4.** Section 7-13-2241, MCA, is amended to read:

13 "7-13-2241. Presentation Filing of petition of
14 nomination. (1) A petition of nomination, consisting of not
15 less than five individual certificates signed by at least
16 five electors of the district for any one candidate, may be
17 presented to filed with the election administrator not
18 earlier than 90 135 days or later than 75 days before the
19 election. The election administrator shall endorse thereon
20 the date upon which the petition was presented to him.

21 (2) If the district lies in more than one county, the
22 petition for nomination shall be presented to the election
23 administrator whose county contains the largest percentage
24 of the territory of the district and the election
25 administrator shall fulfill all duties assigned to election

1 administrators in elections under this part and part 23.

2 (3) If the petition conforms to this section, the
3 election administrator shall place the name of the
4 petitioner on the ballot as a candidate for director of the
5 district."

6 **Section 5.** Section 7-13-2247, MCA, is amended to read:

7 "7-13-2247. Preservation of petitions and certificates.
8 The county clerk shall preserve in his office for a period
9 of 2 years all petitions of nomination ~~and all certificates~~
10 ~~belonging thereto~~ filed under ~~7-13-2244~~ 7-13-2241."

11 **Section 6.** Section 7-33-2106, MCA, is amended to read:

12 "7-33-2106. Details relating to board of trustees of
13 fire district. (1) (a) The five trustees initially appointed
14 by the county commissioners shall hold staggered terms of
15 office until their successors are elected or appointed and
16 qualified as hereinafter provided.

17 (b) The initial trustees' terms of office shall be
18 drawn by lot and include:

19 (i) 3 years for one trustee;

20 (ii) 2 years for two trustees; and

21 (iii) 1 year for two trustees.

22 (c) Upon expiration of the terms provided in subsection
23 (1)(b), each trustee shall serve a 3-year term of office.

24 (2) Trustees shall be elected as provided in subsection
25 (3) of this section, 13-1-104(3), and 13-1-401 or appointed

1 as provided in subsection (4) of this section. The term of
 2 office shall be 3 years beginning at the first district
 3 meeting following their election or appointment and
 4 continuing until their successors are elected or appointed
 5 and qualified. Appointments to fill vacancies shall be made
 6 by the county governing body and appointees shall hold
 7 office until the next regular election. All electors, as
 8 defined in Title 13, who reside in the district are eligible
 9 to vote in the election, including any holder of title to
 10 lands within the district who presents a proof of interest
 11 in such land at the polling place, regardless of whether he
 12 is registered to vote.

13 (3) Candidates for the office of trustee of the fire
 14 district to be filled by election may be nominated by
 15 petition filed with the election administrator or deputy
 16 election administrator at least 75 days before the election
 17 day and signed by at least five electors of the district.

18 (4) If no nominations are made for one or more trustee
 19 offices, the county governing body shall appoint one or more
 20 trustees as necessary to fill those offices.

21 (5) The trustees shall organize by choosing a chairman
 22 and appointing one member to act as secretary."

23 **Section 7.** Section 13-4-106, MCA, is amended to read:

24 "**13-4-106. Compensation of judges.** (1) Election Except
 25 as provided in subsection (2), election judges shall be paid

1 at the prevailing federal minimum wage for the number of
 2 hours worked during an election plus the number of hours
 3 spent at the instruction session. Mileage may be paid to
 4 election judges for attending instruction sessions. ELECTION
 5 JUDGES ARE EXEMPT FROM UNEMPLOYMENT INSURANCE COVERAGE FOR
 6 SERVICES PERFORMED PURSUANT TO THIS CHAPTER.

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

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

14 **Section 8.** Section 13-10-503, MCA, is amended to read:

15 "**13-10-503. Filing deadlines.** (1) A petition for
 16 nomination, accompanied by the required filing fee, shall be
 17 filed with the same officer with whom other nominations for
 18 the office sought are filed. Petitions must be submitted, at
 19 least 1 week before the deadline for filing, to the election
 20 administrator in the county where the signer resides for
 21 verification and certification by the procedures provided in
 22 13-27-303 through 13-27-306. In the event there are
 23 insufficient signatures on the petition, additional
 24 signatures may be submitted before the deadline for filing.

25 (2) Except as provided in 13-10-504, each petition

1 shall be filed ~~on or~~ before the ~~filing--deadline--for--the~~
 2 scheduled primary election or the filing deadline for the
 3 special or general election if no primary election is
 4 scheduled."

5 NEW SECTION. Section 9. Independent candidates --
 6 association with political parties not allowed. (1) A person
 7 seeking office as an independent candidate may not be
 8 associated with a political party for 1 year prior to the
 9 submission of his nomination petition.

10 (2) For the purposes of subsection (1), "associated
 11 with a political party" means ~~having-made-contributions-to-a~~
 12 party, having run for office as a partisan candidate, or
 13 having held an office with a political party designation.

14 **Section 10.** Section 13-13-114, MCA, is amended to read:

15 **"13-13-114. Marking precinct register book before**
 16 **elector votes.** (1) Before an elector is permitted to receive
 17 a ballot or vote, he shall sign his name on the place
 18 designated in the precinct register. Before signing the
 19 register, the elector shall state his name and current
 20 address. If the name or address is not as listed in the
 21 precinct register, the elector must complete a transfer form
 22 or new registration form to correct the information. The
 23 election judges shall write "transfer form" or "registration
 24 form" beside the name of any elector submitting a form. No
 25 elector may sign the precinct register unless his name and

1 address are the same as shown in the register or the proper
 2 corrections have been made.

3 ~~(2) The election judges shall require an elector not~~
 4 ~~able to sign his name to produce two electors who shall sign~~
 5 ~~an affidavit stating that the elector is the individual~~
 6 ~~whose name and address appears in the precinct register~~
 7 ~~before one or more of the election judges on a form~~
 8 ~~prescribed by the secretary of state. The affidavit shall be~~
 9 ~~filed by the election judges and returned to the election~~
 10 ~~administrator with the returns of the election. One of the~~
 11 ~~judges shall write the elector's name, noting the fact of~~
 12 ~~his inability to sign, and the names of the two electors~~
 13 ~~signing the affidavit.~~

14 (2) If the elector is not able to sign his name to the
 15 precinct register, a fingerprint or other identifying mark
 16 may be used.

17 (3) If the elector fails or refuses to sign his name
 18 or, if unable to write, fails to ~~procure--two--electors--who~~
 19 ~~will--take--the--oath--required~~ provide a fingerprint or other
 20 identifying mark, he may not vote."

21 **Section 11.** Section 13-13-115, MCA, is amended to read:

22 **"13-13-115. Pollbooks.** (1) In precincts using paper
 23 ballots, the name of each elector who votes shall be entered
 24 in a pollbook and numbered in the order voting so that the
 25 number corresponds with the number on the stubs of the

1 ballots given the elector or an election judge may use a
 2 numbering device to stamp the number of the ballot stub next
 3 to the name of the elector in a precinct register/pollbook.

4 (2) In precincts where machines or devices are used, a
 5 pollbook need be used only for paper ballots. The election
 6 administrator shall provide such precincts with some method
 7 of recording the number of individuals voting."

8 **Section 12.** Section 13-13-212, MCA, is amended to read:

9 "13-13-212. **Application for absentee ballot.** (1)
 10 Application for absentee ballots shall be made by a written
 11 request signed by the applicant and addressed to or
 12 transmitted by facsimile to the election administrator of
 13 the applicant's county of residence.

14 (2) Application for an absentee ballot may be made by
 15 any elector in the United States service by the federal post
 16 card application or by any written request signed by the
 17 applicant and addressed to or transmitted by facsimile to
 18 the election administrator of the applicant's county of
 19 residence.

20 (3) If an elector requests an absentee ballot because
 21 of a sudden illness or health emergency, the application for
 22 an absentee ballot may be made by written request signed by
 23 the elector at the time the ballot is delivered in person by
 24 the special absentee election board provided for in
 25 13-13-225. Such elector may request by telephone, facsimile

1 transmission, or other means to have a ballot and
 2 application personally delivered to him by the special
 3 absentee election board at his place of confinement,
 4 hospitalization, or residence within the county. Such a
 5 request may be made no later than noon on election day."

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

7 "13-14-115. **Preparation and distribution of nonpartisan**
 8 **primary ballots.** (1) The election administrators shall
 9 arrange, prepare, and distribute primary ballots for
 10 nonpartisan offices, designated "nonpartisan primary
 11 ballots". They shall be arranged as other primary ballots
 12 and be without political designation.

13 (2) The number of nonpartisan primary ballots and
 14 sample ballots furnished shall be the same as other primary
 15 ballots.

16 (3) (a) The governing-body election administrator of a
 17 political subdivision may determine that a primary need not
 18 be held if:

19 ~~(a)(i)~~ the number of candidates for an office exceeds
 20 twice the number to be elected to that office in no more
 21 than one-half of the offices on the ballot; and

22 ~~(b)(ii)~~ the number of candidates in excess of twice the
 23 number to be elected is not more than one for any office on
 24 the ballot; and

25 (b) If the election administrator determines that a

1 primary need not be held pursuant to subsection (3)(a), he
 2 must give notice to the governing body that no primary
 3 election will be held.

4 ~~te~~(4) the The governing body may require that a
 5 primary election be held if it passes a resolution not more
 6 than 7 ~~14~~ 10 days after the close of filing by candidates
 7 for election, stating that a primary election need-not shall
 8 be held."

9 **Section 14.** Section 13-15-111, MCA, is amended to read:

10 "13-15-111. **Write-in elections -- general election.** (1)
 11 An individual elected by having his name written in at the
 12 general election and receiving the largest number of votes
 13 shall:

14 (a) file with the secretary of state or election
 15 administrator, not later than 10 days after the official
 16 canvass, a written declaration indicating his acceptance of
 17 the position for which he was elected; and

18 (b) comply with the provisions of 13-37-225; and

19 (c) pay the required filing fee or comply with
 20 13-10-203 if indigent.

21 (2) If an individual fails to file the declaration as
 22 required under subsection (1)(a), he may not assume the
 23 position for which he was elected."

24 **Section 15.** Section 13-15-403, MCA, is amended to read:

25 "13-15-403. **Canvass to be public -- nonessentials to be**

1 **disregarded -- petition for recount.** (1) The canvass shall
 2 be public. It shall proceed by opening the returns, auditing
 3 the tally books or other records of votes cast, determining
 4 the vote for each individual and for and against each ballot
 5 issue from each precinct, compiling totals, and declaring or
 6 certifying the results.

7 (2) The board shall record all write-in votes shown in
 8 the returns from each precinct.

9 (3) The returns may not be rejected because of failure
 10 to show who administered the oath to the election judges,
 11 failure to complete all the certificates in a pollbook, or
 12 because of failure of any other act making up the returns
 13 that is not essential to determine for whom the votes were
 14 cast.

15 (4) If during a canvass the board finds an error in a
 16 precinct or precincts affecting the accuracy of vote totals,
 17 the board immediately may petition for a recount of the
 18 votes cast in the precinct or precincts, as provided in
 19 13-16-201, or for an inspection of ballots, as provided in
 20 [section 16]."

21 **NEW SECTION. Section 16. Misplaced or missing ballots.**

22 If during a recount the county recount board discovers that
 23 ballots are misplaced or missing, it may petition the
 24 election administrator to inspect all sealed ballots within
 25 the county precincts to find the misplaced or missing

1 ballots. UPON RECEIVING THE PETITION, THE ELECTION
 2 ADMINISTRATOR SHALL INSPECT THE SEALED BALLOTS TO FIND THE
 3 MISPLACED OR MISSING BALLOTS. Upon completion of the
 4 recount, the misplaced or missing ballots must be placed in
 5 their proper precinct and sealed with the remaining ballots.

6 **Section 17.** Section 13-19-106, MCA, is amended to read:

7 **"13-19-106. General requirements for mail ballot**
 8 **election.** A mail ballot election must be conducted
 9 substantially as follows:

10 (1) Official ballots must be prepared and all other
 11 initial procedures followed as otherwise provided by law,
 12 except that mail ballots are not required to have stubs.

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

16 (3) The elector shall mark the ballot at home and place
 17 it in a secrecy envelope.

18 (4) The elector shall then place the secrecy envelope
 19 containing his ballot in a return/verification envelope and
 20 shall return it by mailing it or delivering it in person to
 21 a place of deposit designated by the election administrator
 22 so that it is received prior to a specified time on election
 23 day.

24 (5) Once returned, election officials shall first
 25 qualify the submitted ballot by examining the

1 return/verification envelope to determine whether it is
 2 submitted by a qualified elector who has not previously
 3 voted.

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

8 (7) After the close of polls on election day, voted
 9 ballots must be counted and canvassed as otherwise provided
 10 by law."

11 **Section 18.** Section 13-19-206, MCA, is amended to read:

12 **"13-19-206. Distributing materials to electors --**
 13 **procedure.** For each election conducted under this chapter,
 14 the election administrator shall:

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

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

19 (a) an official ballot, except that the election
 20 administrator may include separate ballots for each type of
 21 election being held concurrently;

22 (b) a secrecy envelope;

23 (c) a return/verification envelope; and

24 (d) complete written instructions for voting and
 25 returning ballots; and

1 (3) ensure that each packet is:

2 (a) clearly marked on its face with the words "~~DO NOT~~
3 ~~FORWARD,--RETURN--TO--SENDER,--RETURN--POSTAGE--GUARANTEED--~~
4 stating the appropriate postal regulation language to
5 prohibit forwarding of the packet;

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

9 (c) deposited in the United States mail with sufficient
10 prepaid postage for it to be delivered to the elector's
11 address."

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

13 "**13-19-306. Returning marked ballots -- when -- where.**

14 (1) After complying with 13-19-301, an elector or his
15 designee may return his ballot on or before election day by
16 either:

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

19 (b) returning it ~~in--person~~ to any place of deposit
20 designated by the election administrator pursuant to
21 13-19-307.

22 (2) In order to have his ballot counted, each elector
23 must return it in such a manner that it is received prior to
24 8 p.m. on election day."

25 **Section 20.** Section 13-19-308, MCA, is amended to read:

1 "**13-19-308. Disposition of ballots returned in person.**
2 Ballots returned by the elector in person must be processed
3 as follows:

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

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

9 (b) resolve any questions as to the validity of the
10 ballot; and

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

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

16 (a) keep a log of the names of all electors from whom
17 he receives ballots and the names of the people who deliver
18 the ballots;

19 ~~(b)--have-the-elector-sign-the-log-where-his-name-has~~
20 ~~been-entered;~~

21 ~~(c)--while-the-elector-is-present,compare-the-signature~~
22 ~~on-the-return/verification-envelope-with-that-entered-in-the~~
23 ~~log-and-resolve-any-discrepancies-with-the-elector;~~

24 ~~(d)~~(b) deposit the unopened return/verification
25 envelope in the sealed ballot transport box provided for

1 that purpose; and

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

7 **Section 21.** Section 13-19-311, MCA, is amended to read:

8 "13-19-311. Valid ballots -- requirements. (1) Only
9 valid ballots may be counted in an election conducted under
10 this chapter.

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

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

15 (b) the elector's signature on the affidavit on the
16 return/verification envelope is verified pursuant to
17 13-19-310; and

18 (c) it is received before 8 p.m. on election day.

19 (3) A ballot is invalid if:

20 (a) more than one ballot is enclosed in a single
21 return/verification or secrecy envelope unless there are
22 multiple elections being held at the same time and there is
23 only one ballot for each election in the envelope; or

24 (b) any identifying marks are placed on the ballot by
25 the elector."

1 **Section 22.** Section 13-19-312, MCA, is amended to read:

2 "13-19-312. Procedure at close of voting. (1) After the
3 close of voting on election day, election officials shall:

4 ~~(1)~~(a) open the official ballot boxes;

5 ~~(2)~~(b) open each secrecy envelope, removing the ballot;

6 and

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

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

13 **Section 23.** Section 13-37-201, MCA, is amended to read:

14 "13-37-201. Campaign treasurer. Except as provided in
15 13-37-206, each candidate and each political committee shall
16 appoint one campaign treasurer and certify the full name and
17 complete address of the campaign treasurer pursuant to this
18 section. A candidate shall file the certification within 5
19 days after becoming a candidate. A political committee shall
20 file the certification, which shall include an
21 organizational statement and set forth the name and address
22 of all other officers, if any, within 5 days after it makes
23 an expenditure or authorizes another person to make an
24 expenditure on its behalf, whichever occurs first. The
25 certification of a candidate or political committee shall be

1 filed with the commissioner and the appropriate county clerk
2 and recorder election administrator as specified for the
3 filing of reports in 13-37-225."

4 **Section 24.** Section 13-37-225, MCA, is amended to read:

5 "13-37-225. Reports of contributions and expenditures
6 required. (1) Except as provided in 13-37-206, each
7 candidate and political committee shall file periodic
8 reports of contributions and expenditures made by or on the
9 behalf of a candidate or political committee. All reports
10 required by this chapter shall be filed with the
11 commissioner and with the county clerk and recorder election
12 administrator of the county in which a candidate is a
13 resident or the political committee has its headquarters.
14 However, where residency within a district, county, city, or
15 town is not a prerequisite for being a candidate, copies of
16 all reports shall be filed with the county clerk and
17 recorder election administrator of the county in which the
18 election is to be held or, if the election is to be held in
19 more than one county, with the clerk and recorder election
20 administrator in the county that the commissioner specifies.

21 (2) In lieu of all contribution and expenditure reports
22 required by this chapter, the commissioner shall accept
23 copies of the reports filed by candidates for congress and
24 president of the United States and their political
25 committees pursuant to the requirements of federal law."

1 ~~SECTION 25. SECTION 39-51-204, MCA, IS AMENDED TO READ:~~

2 ~~"39-51-204. Exclusions from definition of employment.~~

3 ~~(1) The term "employment" does not include:~~

4 ~~(a) agricultural labor, except as provided in~~
5 ~~39-51-203(8);~~

6 ~~(b) domestic service in a private home, local college~~
7 ~~club, or local chapter of a college fraternity or sorority,~~
8 ~~except as provided in 39-51-203(9);~~

9 ~~(c) service performed as an officer or member of the~~
10 ~~crew of a vessel on the navigable waters of the United~~
11 ~~States;~~

12 ~~(d) service performed by an individual in the employ of~~
13 ~~that individual's son, daughter, or spouse and service~~
14 ~~performed by a child under the age of 21 in the employ of~~
15 ~~the child's father or mother;~~

16 ~~(e) service performed in the employ of any other state~~
17 ~~or its political subdivisions or of the United States~~
18 ~~government or of an instrumentality of any other state or~~
19 ~~states or their political subdivisions or of the United~~
20 ~~States, except that national banks organized under the~~
21 ~~national banking law shall not be entitled to exemption~~
22 ~~under this subsection and shall be subject to this chapter~~
23 ~~the same as state banks, provided that such service is~~
24 ~~excluded from employment as defined in the Federal~~
25 ~~Unemployment Tax Act by section 3306(c)(7) of that act;~~

(f) service with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of congress, provided that the department must enter into agreements with the proper agencies under such act of congress, which agreements shall become effective in the manner prescribed in the Montana Administrative Procedure Act for the adoption of rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment insurance under such act of congress or who have, after acquiring potential rights to unemployment insurance under such act of congress, acquired rights to benefits under this chapter;

(g) services performed in the delivery and distribution of newspapers or shopping news from house to house and business establishments by an individual under the age of 18 years, but not including the delivery or distribution to any point or points for subsequent delivery or distribution;

(h) services performed by real estate, securities, and insurance salespeople paid solely by commissions and without guarantee of minimum earnings;

(i) service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university or by the spouse of

such a student if such spouse is advised, at the time such spouse commences to perform such service, that the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and such employment will not be covered by any program of unemployment insurance;

(j) service performed by an individual who is enrolled at a nonprofit or public educational institution, which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at such institution which combines academic instruction with work experience if such service is an integral part of such program and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(k) service performed in the employ of a hospital if such service is performed by a patient of the hospital;

(l) services performed by a cosmetologist who is licensed under Title 37, chapter 31, or a barber who is licensed under Title 37, chapter 30, and who has acknowledged in writing that he is not covered by

1 unemployment insurance and workers' compensation and who
 2 contracts with a cosmetological establishment as defined in
 3 37-31-101 or a barbershop as defined in 37-30-101, which
 4 contract shall show the cosmetologist or barber is free from
 5 all control and direction of the owner in the contract and
 6 in fact; receives payment for services from his or her
 7 individual clientele; leases, rents, or furnishes all of his
 8 or her own equipment, skills, or knowledge; and whose
 9 contract gives rise to an action for breach of contract in
 10 the event of contract termination (the existence of a single
 11 license for the cosmetological establishment or barbershop
 12 shall not be construed as a lack of freedom from control or
 13 direction under this subsection);
 14 (m) casual labor not in the course of an employer's
 15 trade or business performed in any calendar quarter, unless
 16 the cash remuneration paid for such service is \$50 or more
 17 and such service is performed by an individual who is
 18 regularly employed by such employer to perform such service;
 19 "Regularly employed" means the services are performed during
 20 at least 24 days in the same quarter;
 21 (n) services performed for the installation of floor
 22 coverings if the installer;
 23 (i) bids or negotiates a contract price based upon work
 24 performed by the yard or by the job;
 25 (ii) is paid upon completion of an agreed-upon portion

1 of the job or after the job is completed;
 2 (iii) may perform services for anyone without
 3 limitation;
 4 (iv) may accept or reject any job;
 5 (v) furnishes substantially all tools and equipment
 6 necessary to provide the services; and
 7 (vi) works under a written contract that:
 8 (A) gives rise to a breach of contract action if the
 9 installer or any other party fails to perform the contract
 10 obligations;
 11 (B) states the installer is not covered by unemployment
 12 insurance; and
 13 (C) requires the installer to provide a current
 14 workers' compensation policy or to obtain an exemption from
 15 workers' compensation requirements;
 16 (o) service performed by an election judge pursuant to
 17 Article 13, Chapter 4;
 18 (2) "Employment" does not include elected public
 19 officials;
 20 (3) For the purposes of 39-51-203(6), the term
 21 "employment" does not apply to service performed;
 22 (a) in the employ of a church or convention or
 23 association of churches or an organization which is operated
 24 primarily for religious purposes and which is operated,
 25 supervised, controlled, or principally supported by a church

1 or-convention-or-association-of-churches;

2 (b)--by--a--duly--ordained,--commissioned,--or--licensed
3 minister-of--a--church--in--the--exercise--of--the--church's
4 ministry-or-by-a-member-of-a-religious-order-in-the-exercise
5 of-duties-required-by-such-order;

6 (c)--in-a-facility-conducted-for-the-purpose-of-carrying
7 out--a--program--of--rehabilitation--for--individuals--whose
8 earning--capacity--is--impaired-by-age-or-physical-or-mental
9 deficiency-or-injury--or--providing--remunerative--work--for
10 individuals--who,--because--of--their--impaired--physical-or
11 mental--capacity,--cannot--be--readily--absorbed--in--the
12 competitive--labor--market--by--an--individual-receiving-such
13 rehabilitation-or-remunerative-work;

14 (d)--as--part--of--an--unemployment--work-relief--or
15 work-training--program--assisted--or--financed--in--whole--or--in
16 part--by--a--federal--agency--or--any--agency--of--a--state--or
17 political--subdivision--thereof--by--an--individual-receiving
18 such-work-relief-or-work-training,--or

19 (e)--for-a-state-prison-or-other-state--correctional--or
20 custodial-institution-by-an-inmate-of-that-institution."

21 NEW SECTION. Section 25. Repealer. Sections 7-13-2237,
22 7-13-2238, 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, and
23 7-13-2245, MCA, are repealed.

24 NEW SECTION. Section 26. Codification instruction. (1)
25 [Section 9] is intended to be codified as an integral part

1 of Title 13, chapter 10, part 5, and the provisions of Title
2 13, chapter 10, part 5, apply to [section 9].

3 (2) [Section 16] is intended to be codified as an
4 integral part of Title 13, chapter 16, part 4, and the
5 provisions of Title 13, chapter 16, part 4, apply to
6 [section 16].

-End-

GOVERNOR'S AMENDMENTS TO
SENATE BILL 157
(REFERENCE COPY, AS AMENDED)
April 8, 1991

1. Title, lines 7-9
Following: "ELECTIONS;"
Strike: "PROHIBITING INDEPENDENT CANDIDATES FROM BEING
ASSOCIATED WITH A POLITICAL PARTY FOR 1 YEAR PRIOR TO
SEEKING OFFICE;"

2. Page 9, lines 5-13
Strike: Section 9 in its entirety
Renumber: Subsequent sections



AN ACT TO GENERALLY REVISE THE LAWS RELATING TO ELECTIONS; REVISING THE LAWS RELATING TO COUNTY WATER AND SEWER DISTRICT ELECTIONS; PROHIBITING INDEPENDENT CANDIDATES FROM BEING ASSOCIATED WITH A POLITICAL PARTY FOR 1 YEAR PRIOR TO SEEKING OFFICE; ALLOWING FOR INSPECTION OF BALLOTS DURING A CANVASS; PROVIDING FOR STAGGERED TERMS FOR FIRE DISTRICT TRUSTEES; AMENDING SECTIONS 7-4-2611, 7-13-2214, 7-13-2225, 7-13-2241, 7-13-2247, 7-33-2106, 13-4-106, 13-10-503, 13-13-114, 13-13-115, 13-13-212, 13-14-115, 13-15-111, 13-15-403, 13-19-106, 13-19-206, 13-19-306, 13-19-308, 13-19-311, 13-19-312, 13-37-201, AND 13-37-225, MCA; AND REPEALING SECTIONS 7-13-2237, 7-13-2238, 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, AND 7-13-2245, MCA.

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

Section 1. Section 7-4-2611, MCA, is amended to read:

"7-4-2611. Role and duties of county clerk and election administrator. (1) The county clerk of any county is also clerk of the county commissioners and ex officio recorder. Any duty imposed by law upon such officer, either as county clerk, clerk of the county commissioners, or recorder, shall be performed by the county clerk, and any official act performed or certified by the county clerk shall be as valid and effectual as if performed and certified to by him as clerk of the county commissioners or as recorder.

(2) The county clerk must:

(a) take charge of and safely keep or dispose of according to law all books, papers, maps, and records which may be filed or deposited in his office;

(b) record all the proceedings of the board;

(c) make full entries of all its resolutions and decisions on all questions concerning the raising of money for and the allowance of accounts against the county;

(d) record the vote of each member on any question upon which there is a division or at the request of any member present;

(e) sign all orders made and warrants issued by order of the board for the payment of money and certify the same to the county treasurer;

(f) record the reports of the county treasurer of the receipts and disbursements of the county;

(g) preserve and file all accounts acted upon by the board;

(h) preserve and file all petitions and applications for franchises and record the action of the board thereon;

(i) record all orders levying taxes;

(j) designate upon every account allowed by the board the amount allowed and deliver to any person who may demand it a certified copy of any record in his office or any account on file therein;

(k) as often as a new township is organized or the boundaries of any township are altered, immediately make out and transmit to the secretary of state a certified statement of the names and

boundaries and the boundaries of any township altered;

(1) keep such other records and books and perform such other duties as are prescribed by law or by rule or order of the board.

(3) ~~A-county-clerk-and--recorder~~ An election administrator shall file, code, and cross-index all reports and statements filed as prescribed by the commissioner of political practices.

(4) ~~A-county--clerk--and--recorder~~ An election administrator shall make statements and other information filed under the provisions of Title 13, chapters 35, 36, and 37, in his office available for public inspection and copying during regular office hours and make copying facilities available free of charge or at a charge not to exceed actual cost."

Section 2. Section 7-13-2214, MCA, is amended to read:

"7-13-2214. Order creating district upon sufficient favorable vote. (1) If at least 40% of all registered voters residing within the proposed district have voted and if a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory of each county included in such proposed district shall be in favor of organizing such county district, said board of county commissioners of each such county shall, by an order entered on its minutes, declare the territory enclosed within the proposed boundaries duly organized as a county water and/or sewer district under the name theretofore designated.

(2) The ~~county--clerk~~ election administrator of each such

county shall immediately cause to be filed with the secretary of state and shall cause to be recorded in the office of the county clerk and recorder of the county or each county in which such district is situated a certificate stating that such a proposition was adopted."

Section 3. Section 7-13-2225, MCA, is amended to read:

"7-13-2225. Combination of elections. (1) The board of county commissioners in its discretion may combine in one election the election on the formation of the district, the election of directors, and the election on incurring a bonded indebtedness so that the electors of the district may vote on all of these matters on the same date and at the same time.

(2) If the elections are combined, the board of county commissioners shall so declare by resolution containing the provisions required by 7-13-2321. If the elections are combined, the notice of the election shall contain the names of the candidates and the details concerning the bonded indebtedness.

(3) Candidates for the office of director shall be nominated in the manner required by ~~7-13-2235--through--7-13-2247~~ 7-13-2241 and 7-13-2246."

Section 4. Section 7-13-2241, MCA, is amended to read:

"7-13-2241. Presentation Filing of petition of nomination. (1) A petition of nomination, ~~consisting-of--not--less--than--five individual--certificates~~ signed by at least five electors of the district for any one candidate, may be ~~presented-to~~ filed with the

election administrator not earlier than ~~90~~ 135 days or later than 75 days before the election. The election administrator shall endorse thereon the date upon which the petition was presented to him.

(2) If the district lies in more than one county, the petition for nomination shall be presented to the election administrator whose county contains the largest percentage of the territory of the district and the election administrator shall fulfill all duties assigned to election administrators in elections under this part and part 23.

(3) If the petition conforms to this section, the election administrator shall place the name of the petitioner on the ballot as a candidate for director of the district."

Section 5. Section 7-13-2247, MCA, is amended to read:

"7-13-2247. Preservation of petitions and--certificates. The county clerk shall preserve in his office for a period of 2 years all petitions of nomination ~~and--all--certificates--belonging--thereto~~ filed under ~~7-13-2244~~ 7-13-2241."

Section 6. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district. (1) (a) The five trustees initially appointed by the county commissioners shall hold staggered terms of office until their successors are elected or appointed and qualified as hereinafter provided.

(b) The initial trustees' terms of office shall be drawn by

lot and include:

(i) 3 years for one trustee;

(ii) 2 years for two trustees; and

(iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

(2) Trustees shall be elected as provided in subsection (3) of this section, 13-1-104(3), and 13-1-401 or appointed as provided in subsection (4) of this section. The term of office shall be 3 years beginning at the first district meeting following their election or appointment and continuing until their successors are elected or appointed and qualified. Appointments to fill vacancies shall be made by the county governing body and appointees shall hold office until the next regular election. All electors, as defined in Title 13, who reside in the district are eligible to vote in the election, including any holder of title to lands within the district who presents a proof of interest in such land at the polling place, regardless of whether he is registered to vote.

(3) Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district.

(4) If no nominations are made for one or more trustee

offices, the county governing body shall appoint one or more trustees as necessary to fill those offices.

(5) The trustees shall organize by choosing a chairman and appointing one member to act as secretary."

Section 7. Section 13-4-106, MCA, is amended to read:

"13-4-106. Compensation of judges. (1) Election Except as provided in subsection (2), election judges shall be paid at the prevailing federal minimum wage 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.

(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 such certification are received."

Section 8. Section 13-10-503, MCA, is amended to read:

"13-10-503. Filing deadlines. (1) A petition for nomination, accompanied by the required filing fee, shall be filed with the same officer with whom other nominations for the office sought are filed. Petitions must be submitted, at least 1 week before the

deadline for filing, to the election administrator in the county where the signer resides for verification and certification by the procedures provided in 13-27-303 through 13-27-306. In the event there are insufficient signatures on the petition, additional signatures may be submitted before the deadline for filing.

(2) Except as provided in 13-10-504, each petition shall be filed ~~on--or~~ before the ~~filing-deadline-for-the~~ scheduled primary election or the filing deadline for the special or general election if no primary election is scheduled."

Section 9. Independent candidates -- association with political parties not allowed. (1) A person seeking office as an independent candidate may not be associated with a political party for 1 year prior to the submission of his nomination petition.

(2) For the purposes of subsection (1), "associated with a political party" means having run for office as a partisan candidate or having held an office with a political party designation.

Section 10. Section 13-13-114, MCA, is amended to read:

"13-13-114. Marking precinct register book before elector votes. (1) Before an elector is permitted to receive a ballot or vote, he shall sign his name on the place designated in the precinct register. Before signing the register, the elector shall state his name and current address. If the name or address is not as listed in the precinct register, the elector must complete a transfer form or new registration form to correct the information.

The election judges shall write "transfer form" or "registration form" beside the name of any elector submitting a form. No elector may sign the precinct register unless his name and address are the same as shown in the register or the proper corrections have been made.

~~(2) The election judges shall require an elector not able to sign his name to produce two electors who shall sign an affidavit stating that the elector is the individual whose name and address appears in the precinct register before one or more of the election judges on a form prescribed by the secretary of state. The affidavit shall be filed by the election judges and returned to the election administrator with the returns of the election. One of the judges shall write the elector's name, noting the fact of his inability to sign, and the names of the two electors signing the affidavit.~~

(2) If the elector is not able to sign his name to the precinct register, a fingerprint or other identifying mark may be used.

(3) If the elector fails or refuses to sign his name or, if unable to write, fails to procure two electors who will take the oath required provide a fingerprint or other identifying mark, he may not vote."

Section 11. Section 13-13-115, MCA, is amended to read:

"13-13-115. Pollbooks. (1) In precincts using paper ballots, the name of each elector who votes shall be entered in a pollbook

and numbered in the order voting so that the number corresponds with the number on the stubs of the ballots given the elector or an election judge may use a numbering device to stamp the number of the ballot stub next to the name of the elector in a precinct register/pollbook.

(2) In precincts where machines or devices are used, a pollbook need be used only for paper ballots. The election administrator shall provide such precincts with some method of recording the number of individuals voting."

Section 12. Section 13-13-212, MCA, is amended to read:

"13-13-212. Application for absentee ballot. (1) Application for absentee ballots shall be made by a written request signed by the applicant and addressed to or transmitted by facsimile to the election administrator of the applicant's county of residence.

(2) Application for an absentee ballot may be made by any elector in the United States service by the federal post card application or by any written request signed by the applicant and addressed to or transmitted by facsimile to the election administrator of the applicant's county of residence.

(3) 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 the ballot is delivered in person by the special absentee election board provided for in 13-13-225. Such elector may request by telephone, facsimile transmission, or other

means to have a ballot and application personally delivered to him by the special absentee election board at his place of confinement, hospitalization, or residence within the county. Such a request may be made no later than noon on election day."

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

"13-14-115. Preparation and distribution of nonpartisan primary ballots. (1) The election administrators shall arrange, prepare, and distribute primary ballots for nonpartisan offices, designated "nonpartisan primary ballots". They shall be arranged as other primary ballots and be without political designation.

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

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

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

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

(b) If the election administrator determines that a primary need not be held pursuant to subsection (3)(a), he must give notice to the governing body that no primary election will be held.

(c)(4) the The governing body may require that a primary election be held if it passes a resolution not more than 7 10 days after the close of filing by candidates for election, stating that a primary election need-not shall be held."

Section 14. Section 13-15-111, MCA, is amended to read:

"13-15-111. Write-in elections -- general election. (1) An individual elected by having his name written in at the general election and receiving the largest number of votes shall:

(a) file with the secretary of state or election administrator, not later than 10 days after the official canvass, a written declaration indicating his acceptance of the position for which he was elected; and

(b) comply with the provisions of 13-37-225; and

(c) pay the required filing fee or comply with 13-10-203 if indigent.

(2) If an individual fails to file the declaration as required under subsection (1)(a), he may not assume the position for which he was elected."

Section 15. Section 13-15-403, MCA, is amended to read:

"13-15-403. Canvass to be public -- nonessentials to be disregarded -- petition for recount. (1) The canvass shall be public. It shall proceed by opening the returns, auditing the tally books or other records of votes cast, determining the vote for each individual and for and against each ballot issue from each precinct, compiling totals, and declaring or certifying the

results.

(2) The board shall record all write-in votes shown in the returns from each precinct.

(3) The returns may not be rejected because of failure to show who administered the oath to the election judges, failure to complete all the certificates in a pollbook, or because of failure of any other act making up the returns that is not essential to determine for whom the votes were cast.

(4) If during a canvass the board finds an error in a precinct or precincts affecting the accuracy of vote totals, the board immediately may petition for a recount of the votes cast in the precinct or precincts, as provided in 13-16-201, or for an inspection of ballots, as provided in [section 16]."

Section 16. **Misplaced or missing ballots.** If during a recount the county recount board discovers that ballots are misplaced or missing, it may petition the election administrator to inspect all sealed ballots within the county precincts to find the misplaced or missing ballots. Upon receiving the petition, the election administrator shall inspect the sealed ballots to find the misplaced or missing ballots. Upon completion of the recount, the misplaced or missing ballots must be placed in their proper precinct and sealed with the remaining ballots.

Section 17. 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) Official ballots must be prepared and all other initial procedures followed as otherwise provided by law, except that mail ballots 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) The elector shall mark the ballot at home and place it in a secrecy envelope.

(4) The elector shall then place the secrecy envelope containing his ballot in a return/verification envelope and shall return it by mailing it or delivering it in person to a place of deposit designated by the election administrator so that it is received prior to a specified time on election day.

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

(6) If the ballot so 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 unopened in an official ballot box.

(7) After the close of polls on election day, voted ballots must be counted and canvassed as otherwise provided by law."

Section 18. 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;

(b) a secrecy envelope;

(c) a return/verification envelope; and

(d) complete written instructions for voting and returning ballots; and

(3) ensure that each packet is:

(a) clearly marked on its face with the words "~~DO--NOT FORWARD--RETURN TO SENDER--RETURN POSTAGE GUARANTEED~~," stating the appropriate postal regulation language to prohibit forwarding of the packet;

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

(c) deposited in the United States mail with sufficient prepaid postage for it to be delivered to the elector's address."

Section 19. 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 designee may

return his 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 ~~in-person~~ to any place of deposit designated by the election administrator pursuant to 13-19-307.

(2) In order to have his ballot counted, each elector must return it in such a manner that it is received prior to 8 p.m. on election day."

Section 20. Section 13-19-308, MCA, is amended to read:

"13-19-308. Disposition of ballots returned in person. Ballots returned by the elector 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 is present, officials shall:

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

(b) resolve any questions as to the validity of the ballot; and

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

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

(a) keep a log of the names of all electors from whom he receives ballots and the names of the people who deliver the

ballots;

~~(b) have the elector sign the log where his name has been entered;~~

~~(c) while the elector is present, compare the signature on the return/verification envelope with that entered in the log and resolve any discrepancies with the elector;~~

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

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

Section 21. 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 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.

(3) A ballot is invalid if:

(a) more than one ballot is enclosed in a single return/verification or secrecy envelope unless there are multiple elections being held at the same time and there is only one ballot for each election in the envelope; or

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

Section 22. Section 13-19-312, MCA, is amended to read:

"13-19-312. Procedure at close of voting. (1) After the close of voting on election day, election officials shall:

~~(1)~~ (a) open the official ballot boxes;

~~(2)~~ (b) open each secrecy envelope, removing the ballot; and

~~(3)~~ (c) proceed to count the votes as otherwise provided by law.

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

Section 23. Section 13-37-201, MCA, is amended to read:

"13-37-201. Campaign treasurer. Except as provided in 13-37-206, each candidate and each political committee shall appoint one campaign treasurer and certify the full name and complete address of the campaign treasurer pursuant to this section. A candidate shall file the certification within 5 days after becoming a candidate. A political committee shall file the certification, which shall include an organizational statement and set forth the name and address of all other officers, if any,

within 5 days after it makes an expenditure or authorizes another person to make an expenditure on its behalf, whichever occurs first. The certification of a candidate or political committee shall be filed with the commissioner and the appropriate ~~county clerk--and--recorder~~ election administrator as specified for the filing of reports in 13-37-225."

Section 24. Section 13-37-225, MCA, is amended to read:

"13-37-225. Reports of contributions and expenditures required. (1) Except as provided in 13-37-206, each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. All reports required by this chapter shall be filed with the commissioner and with the ~~county-clerk-and-recorder~~ election administrator of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports shall be filed with the ~~county-clerk-and-recorder~~ election administrator of the county in which the election is to be held or, if the election is to be held in more than one county, with the ~~clerk-and-recorder~~ election administrator in the county that the commissioner specifies.

(2) In lieu of all contribution and expenditure reports required by this chapter, the commissioner shall accept copies of the reports filed by candidates for congress and president of the

United States and their political committees pursuant to the requirements of federal law."

Section 25. Repealer. Sections 7-13-2237, 7-13-2238, 7-13-2239, 7-13-2240, 7-13-2242, 7-13-2244, and 7-13-2245, MCA, are repealed.

Section 26. Codification instruction. (1) [Section 9] is intended to be codified as an integral part of Title 13, chapter 10, part 5, and the provisions of Title 13, chapter 10, part 5, apply to [section 9].

(2) [Section 16] is intended to be codified as an integral part of Title 13, chapter 16, part 4, and the provisions of Title 13, chapter 16, part 4, apply to [section 16].