1	Levate	BILL	NO.	/19

INTRODUCED BY LYNCH

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A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS 23-3704, 23-3706, 23-3707, 23-3712, 23-3713, 23-3717, AND 23-3722, R.C.M. 1947, TO PROVIDE THAT ABSENTEE VOTER APPLICATION FORMS AND BALLOT ENVELOPES SHALL BE AFFIRMED BY THE ABSENTEE ELECTOR."

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

11 Section 1. Section 23-3704, R.C.M. 1947, is amended to read as follows:

13 "23-3704. Form of application--affidavit-- manner.

(1) Application for absentee ballots shall be made on a form furnished by the registrar of the county of which the applicant is an elector, the city clerk, or clerk of a first class school district. The form shall be prescribed by the

secretary of state except as provided in section 23-3702.

- swear-to-it-before-an-officer-authorized-to-administer-oaths affirming that the information contained in the application is true and complete to the best of his knowledge. The application is not complete without this affidavit
- 24 affirmation.
  - (3) Application for an absentee hallot may be made by

any elector in the United States service by the federal post

2 card application or by any written request signed by the

3 applicant, addressed to the registrar of the applicant's

4 residence."

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5 Section 2. Section 23-3706, R.C.M. 1947, is amended to read as follows:

7 \*23-3706. Mailing ballot to elector--affidavit
8 affirmation--electors in the United States service. (1)
9 Either upon receipt of the application or immediately after
10 the official ballot for the precinct of the applicant's
11 residence has been printed, the registrar, city clerk, or
12 clerk of a first class school district shall send by mail,
13 postage prepaid, whatever official ballots are necessary.

- (2) The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post-office address of the officer sending it, and upon the other side a printed affidavit affirmation in a form prescribed by the secretary of state.
- (3) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope shall have printed across the face two parallel horizontal red bars, each one-quarter (1/4) inch wide, extending from one side of the envelope to the other, with an intervening space of one-quarter (1/4) inch, with the words "Official Election Ballot Material--via Air Mail,"

- 1 between the bars. In the upper right-hand corner shall be printed "Free of U.S. Postage." In the upper left-hand corner shall be blanks sufficient for the recipient to place his return address. All printing on the face of the envelope shall be in red. The gummed flap of the envelope supplied for the return of the ballot shall be separated by 7 wax paper or other appropriate protective insert. Voting instructions provided in subparagraph (5) of this section shall include a procedure to be followed by absentee voters, such as notation of the facts on the back of the envelope 10 duly signed by the voter and--witnessing--officer, in 11 12 instances of adhesion of the balloting material.
- 13 (4) The return address shall be self-addressed to the 14 registrar or city clerk.
- 15 (5) Instructions for voting shall be enclosed with the
  16 ballots for electors in the United States service.
  17 Instructions shall include information concerning the type
  18 or types of writing instruments which may be used to mark
  19 the absentee ballot.
- Section 3. Section 23-3707, R.C.M. 1947, is amended to read as follows:
- 22 "23-3707. Marking and swearing affirming to ballot by
  23 elector. (1) The elector shall complete the affidavit
  24 before—an—officer—cuthorized—by—law—at—the—place—of
  25 execution—to—administer—oaths—affirmation at the time he

- executes his vote.
- 2 (2) The elector shall mark each ballot in-the-presence
  3 ef--the--efficer--enly; in a manner so the-efficer-cannot no
  4 other person can see the vote.
- 5 (3) The ballot shall-be-folded-by--the elector shall
  6 fold the ballot to conceal the vote in-the-presence-of-the
  7 officer and the-elector shall\_-in-the--officer's--presence,
  8 place it in the envelope and seal it.
- 9 (4) The efficer elector shall sign at the end of the 10 certificate and efficient affirmation.
- 11 (5) The elector shall mail the envelope, postage 12 prepaid, or deliver it to the registrar, city clerk, or 13 clerk of a first class school district."
- Section 4. Section 23-3712, R.C.M. 1947, is amended to read as follows:
  - \*23-3712. Voting before election day by prospective absentee or physically incapacitated elector. (1) An elector who is present in his county after the official ballots of his county or school district have been printed who has reason to believe that he will be absent from the county or school district or physically incapacitated on election day, may vote before election day before the registrar, city clerk, or school district clerk, or some-officer-authorized
- 25 respective deputy.

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to-administer--eaths--and--having--the--official--seal; the

- 1 (2) The provisions of this chapter apply to such 2 voting.
- 3 (3) If the ballot is marked before the registrar, city
  4 clerk, er school district clerk, or the respective deputy,
  5 he shall deal with it in the same manner as if it had come
  6 by mail."
- 7 Section 5. Section 23-3713, R.C.M. 1947, is amended to 8 read as follows:

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- "23-3713. Envelopes containing ballots--deposit in box and rejection of ballot. (1) While the polls are open on election day, the election judges shall first open the outer envelope only, and compare the signature of the voter on the application and on the affidavit affirmation.
- (2) If the election judges find that the signatures correspond, that the affidevit affirmation is sufficient, and that the absentee elector is qualified and has not yet voted, they shall open the absentee voter's envelope and take out the ballot or ballots and, without unfolding it or permitting it to be examined, ascertain whether the stub is still attached and whether the number corresponds to the number in the certificate of the registrar or city clerk.
- (3) If so, they shall endorse it the same way that other ballots are endorsed, detach the stub, deposit the ballots in the proper ballot boxes, and make entries in their election records to show the elector has voted.

- 1 (4) If the affidavit affirmation is found defective,
  2 the numbers do not correspond, or the voter is unqualified,
  3 the election judges, without opening the absentee ballot,
  4 shall mark across the face of it "rejected as defective" or
  5 "rejected as not an elector."
- 6 (5) The absentee ballot envelope, when it has been
  7 voted or rejected, shall be deposited in the ballot box
  8 containing the general or party ballots, and shall be
  9 retained and preserved in the manner provided for official
  10 ballots.
- 11 (6) If, upon opening the absentee ballot envelope, it is found that the stub of any ballot has been detached, or 12 that the number does not correspond to the number on the 13 14 certificate of the registrar or clerk, the ballot shall be 15 rejected. It shall be marked on back as "rejected for 16 .... filling the blank with the reason. This statement 17 shall be dated and signed by a majority of the election 18 judges.
- 19 (7) The rejected ballots, together with the absentee
  20 ballot envelope bearing the application shall be enclosed in
  21 an envelope, sealed, and the judges shall write on the
  22 envelope, "rejected ballot of absentee voter" (writing in
  23 the elector's name). "The rejected ballot(s) is (are)
- 25 (8) The election judges shall designate the rejected

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. . . . . "

ballot as "general ballot," if it is a ballot for candidates that are rejected.

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- 3 (9) If the rejected ballot is on a guestion submitted 4 to the vote of the electors, the judges shall designate it 5 as ballot question No. ... in the certificate on the 6 envelope.
- 7 (10) A separate enclosing envelope shall be used for 8 each absentee ballot rejected. This envelope shall be 9 placed in the envelope in which the other ballots voted are 10 required to be placed and shall not be opened without a 11 court order.
- 12 (11) The registrar or clerk shall provide and deliver 13 to the election judges suitable envelopes for enclosing 14 rejected absentee ballots."
- 15 Section 6. Section 23-3717, R.C.M. 1947, is amended to read as follows:
- 17 \*23-3717. False swearing affirmation perjury--official
  18 misconduct a misdemeanor. (1) If a person willfully swears
  19 falsely-to-any--affidavitt- makes false statements in an
  20 affirmation required by this chapter he is guilty of
  21 perjury.
  - (2) If the registrar, clerk, or any election officer:
- 23 (a) Refuses or neglects to perform any duties
  24 prescribed by this act,
- 25 (b) Makes false statements in his certificate regarding

1	affidavits	affirmations,
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- 2 (c) Looks at any marks made by the voter upon the 3 ballot,
- 4 (d) Allows any person other than the voter to be present at the marking of such ballot,
- 6 (e) Sees any marks made by the voter on the ballot, he
  7 is guilty of a misdemeanor and upon conviction shall be
  8 fined not more than five hundred dollars (\$500), imprisoned
  9 in the county jail for not more than six (6) months, or
  10 both.\*
- 11 Section 7. Section 23-3722, R.C.M. 1947, is amended to read as follows:
- \*23-3722. Method of registration of voter absent from 1.3 county. (1) An elector who is unable to make personal 14 application for registration by reason of being absent from 15 the county, may register to vote prior to the close of 16 17 registration before any election, by appearing, -- executing and--verifying--under--oathy-before-a-notary-public-or-other 18 officer-empowered-to-administer--caths, completing at any 19 place within the United States, a registration card as 20
- 22 (2) He must return the card in sufficient time to reach
  23 the registrar before the close of registration.

provided in sections 23-3701 through 23-3723.

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24 (3) The elector's name may not be entered in the official register until at least two (2) registered electors

- 1 of the county in which the elector desiring to be registered
- 2 has his place of residence as stated in his application for
- 3 registration, appear before the registrar and make
- 4 affidavits in writing, stating that they are personally
- 5 acquainted with the applicant, are familiar with and know
- 6 his signature, and have seen him write and that the
- 7 signature subscribed to the application or {for}
- 8 registration is the signature of the elector.\*

-End-

44th Legislature SB 0189/02

## Approved by Committee on Judiciary

2	INTRODUCED BY LYNCH
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4	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
5	23-3704, 23-3706, 23-3707, 23-3712, 23-3713, AND 23-3717,
6	AND-23-37227 R.C.M. 1947, TO PROVIDE THAT ABSENTEE VOTER
7	APPLICATION FORMS AND BALLOT ENVELOPES SHALL BE AFFIRMED BY
8	THE ABSENTEE ELECTOR."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 23-3704, R.C.M. 1947, is amended to
12	read as follows:
13	"23-3704. Form of applicationaffidavit manner.
14	(1) Application for absentee ballots shall be made on a
15	form furnished by the registrar of the county of which the
16	applicant is an elector, the city clerk, or clerk of a first
17	class school district. The form shall be prescribed by the
18	secretary of state except as provided in section 23-3702.
19	(2) The applicant shall subscribe the application and
20	swear-to-it-before-an-officer-authorized-to-administer-eaths
21	affirming that the information contained in the application
22	is true and complete to the best of his knowledge. The
23	application is not complete without this affidavit
24	affirmation.
25	(3) Application for an absentee ballot may be made by

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1 any elector in the United States service by the federal post 2 card application or by any written request signed by the 3 applicant, addressed to the registrar of the applicant's residence." 5 Section 2. Section 23-3706, R.C.M. 1947, is amended to read as follows: 7 "23-3706. Mailing ballot to elector--affidavit 8 affirmation -- electors in the United States service. Either upon receipt of the application or immediately after 10 the official ballot for the precinct of the applicant's 11 residence has been printed, the registrar, city clerk, or 12 clerk of a first class school district shall send by mail, 13 postage prepaid, whatever official ballots are necessary. 14 (2) The proper officer shall enclose an envelope with 15 the ballots which has written on the front the name, title, 16 and post-office address of the officer sending it, and upon 1.7 the other side a printed affidavit affirmation in a form 18 prescribed by the secretary of state. 19 (3) Both the envelope in which the ballot is mailed to

an elector in the United States service and the return

envelope shall have printed across the face two parallel

horizontal red bars, each one-quarter (1/4) inch wide,

extending from one side of the envelope to the other, with

an intervening space of one-quarter (1/4) inch, with the

words "Official Election Ballot Material -- via Air Mail,"

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1	between the bars. In the upper right-hand corner shall be
2	printed "Free of U.S. Postage." In the upper left-hand
3	corner shall be blanks sufficient for the recipient to place
4	his return address. All printing on the face of the
5	envelope shall be in red. The gummed flap of the envelope
6	supplied for the return of the ballot shall be separated by
7	wax paper or other appropriate protective insert. Voting
8	instructions provided in subparagraph (5) of this section
9	shall include a procedure to be followed by absentee voters,
10	such as notation of the facts on the back of the envelope
11	duly signed by the voter and-witnessingofficer, in
12	instances of adhesion of the balloting material.

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registrar or city clerk.

(5) Instructions for voting shall be enclosed with the ballots for electors in the United States service. Instructions shall include information concerning the type or types of writing instruments which may be used to mark the absentee ballot.\*

(4) The return address shall be self-addressed to the

- 20 Section 3. Section 23-3707, R.C.M. 1947, is amended to 21 read as follows:
- 22 "23-3707. Marking and swearing affirming to ballot by
  23 elector. (1) The elector shall complete the affidevit
  24 before—an—officer—authorized—by—law—at—the—place—of
  25 execution—te—administer—outhor affirmation at the time he

exec	utes	his	vote.

- (2) The elector shall mark each ballot in-the--presence of--the--officer--only; in a manner so the-officer-cannot no other person can see the vote.
- 5 (3) The ballot-shall-be-folded-by--the elector shall
  6 fold the ballot to conceal the vote in-the-presence-of-the
  7 officer and the-elector shall-in-the-officer's--presence8 place it in the envelope and seal it.
- 9 (4) The officer elector shall sign at the end of the certificate and officerity affirmation.
- 11 (5) The elector shall mail the envelope, postage 12 prepaid, or deliver it to the registrar, city clerk, or 13 clerk of a first class school district.
- Section 4. Section 23-3712, R.C.M. 1947, is amended to read as follows:
- 16 "23-3712. Voting before election day by prospective absentee or physically incapacitated elector. (1) An elector 17 who is present in his county after the official ballots of 18 his county or school district have been printed who has 19 20 reason to believe that he will be absent from the county or school district or physically incapacitated on election day, 21 22 may vote before election day before the registrar, city 23 clerk, or school district clerk, or seme-officer-authorized 24 to-administer--oaths--and--having--the--official--seal; the 25 respective deputy.

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. . . . . \*

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1 (2) The provisions of this chapter apply to such 2 voting.

- (3) If the ballot is marked before the registrar, city 3 clerk, or school district clerk, or the respective deputy, 4 5 he shall deal with it in the same manner as if it had come by mail."
- 7 Section 5. Section 23-3713, R.C.M. 1947, is amended to read as follows:

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- "23-3713. Envelopes containing ballots--deposit in box and rejection of ballot. (1) While the polls are open on election day, the election judges shall first open the outer envelope only, and compare the signature of the voter on the application and on the affidavit affirmation.
- (2) If the election judges find that the signatures correspond, that the affidavit affirmation is sufficient, and that the absentee elector is qualified and has not yet voted. they shall open the absentee voter's envelope and take out the ballot or ballots and, without unfolding it or permitting it to be examined, ascertain whether the stub is still attached and whether the number corresponds to the number in the certificate of the registrar or city clerk.
- (3) If so, they shall endorse it the same way that 22 other ballots are endorsed, detach the stub, deposit the 23 ballots in the proper ballot boxes, and make entries in 24 their election records to show the elector has voted. 25

- 1 (4) If the affidevit affirmation is found defective. 2 the numbers do not correspond, or the voter is unqualified, the election judges, without opening the absentee ballot, 3 shall mark across the face of it "rejected as defective" or "rejected as not an elector."
- б (5) The absentee ballot envelope, when it has been 7 voted or rejected, shall be deposited in the ballot box 8 containing the general or party ballots, and shall be 9 retained and preserved in the manner provided for official 10 ballots.
- 11 (6) If, upon opening the absentee ballot envelope, it 12 is found that the stub of any ballot has been detached, or 13 that the number does not correspond to the number on the certificate of the registrar or clerk, the ballot shall be 14 15 rejected. It shall be marked on back as "rejected for ....," filling the blank with the reason. This statement 16 17 shall be dated and signed by a majority of the election 18 judges.
- 19 (7) The rejected ballots, together with the absentee 20 ballot envelope bearing the application shall be enclosed in 21 an envelope, sealed, and the judges shall write on the 22 envelope, "rejected ballot of absentee voter" (writing in 23 the elector's name). "The rejected ballot(s) is (are)
- 25 (8) The election judges shall designate the rejected -6-

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1	ballot as "general ballot," if it is a ballot for candidates
2	that are rejected.

- 3 (9) If the rejected ballot is on a question submitted to the vote of the electors, the judges shall designate it 4 5 as ballot question No. ... in the certificate on the 6 envelope.
- 7 (10) A separate enclosing envelope shall be used for 8 each absentee ballot rejected. This envelope shall be 9 placed in the envelope in which the other ballots voted are 10 required to be placed and shall not be opened without a 11 court order.
- 12 (11) The registrar or clerk shall provide and deliver 13 to the election judges suitable envelopes for enclosing 14 rejected absentee ballots."
- 15 Section 6. Section 23-3717, R.C.M. 1947, is amended to 16 read as follows:
- 17 \*23-3717. False swearing affirmation perjury--official 18 misconduct a misdemeanor. (1) If a person willfully swears 19 falsely-to-any--affidavitt- makes false statements in an 20 affirmation required by this chapter he is quilty of 21 perjury.
- 22 (2) If the registrar, clerk, or any election officer:
- 23 (a) Refuses or neglects to perform any duties 24 prescribed by this act.
- 25 (b) Makes false statements in his certificate regarding -7-

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2	(c)	Looks	at	any	marks	made	by	the	voter	upon	th
3	ballot,										

efficientes affirmations.

- (d) Allows any person other than the voter to be ent at the marking of such ballot,
- (e) Sees any marks made by the voter on the ballot, he uilty of a misdemeanor and upon conviction shall be d not more than five hundred dollars (\$500), imprisoned he county jail for not more than six (6) months, or
- Section-7.--Section-23-3722.-R.C.M.-1947.-is-amended-to -as-follows:
  - #23-3722;--Method-of-registration-of-voter-absent--from ty----(1}--An--<del>elector</del>--who--is--unable-to-make-personal ication-for-registration-by-reason-of-being-absent--from -<del>county,--may--register--to--vote--prior-to-the-cl</del>ese-of stration-before-any-election;--by--appearing;--executing -verifying--under--oathy-before-a-notary-public-or-other cer-empowered-to-administer--oaths, completing at--any e--within--the--United--States,--a--registration-card-as ided-in-sections-23-3701-through-23-3723;
  - (2)-He-must-return-the-card-in-sufficient-time-to-reach the-registrar-before-the-close-of-registration:
  - (3)-The-elector's--name--may--not--be--entered--in--the official-register-until-at-least-two-{2}-registered-electors

of-the-county-in-which-the-elector-desiring-to-be-registered
has-his-place-of-residence-as-stated-in-his-application-for
registration,--appear--before---the---registrar---and---make
affidavits--in--writing,--stating--that--they-are-personally
acquainted-with-the-applicant,-are-familiar--with--and--knew
his--signature,--and--have--seen--him--write--and--that--the
signature---subscribed---to---the---application---or [for]
registration-is-the-signature-of-the-elector,"

-End-

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1	SENATE BILL NO. 189
2	INTRODUCED BY LYNCH
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4	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
5	23-3704, 23-3706, 23-3707, 23-3712, 23-3713, <u>AND</u> 23-3717,
6	AND-23-37227 R.C.M. 1947, TO PROVIDE THAT ABSENTEE VOTER
7	APPLICATION FORMS AND BALLOT ENVELOPES SHALL BE AFFIRMED BY
8	THE ABSENTEE ELECTOR."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 23-3704, R.C.M. 1947, is amended to
12	read as follows:
13	"23-3704. Form of applicationaffidavit manner.
14	(1) Application for absentee ballots shall be made on a
15	form furnished by the registrar of the county of which the
16	applicant is an elector, the city clerk, or clerk of a first
17	class school district. The form shall be prescribed by the
18	secretary of state except as provided in section 23-3702.
19	(2) The applicant shall subscribe the application and
20	swear-to-it-before-an-officer-authorized-to-administer-oaths
21	affirming that the information contained in the application
22	is true and complete to the best of his knowledge. The
23	application is not complete without this affidavit
24	affirmation.
25	(3) Application for an absentee ballot may be made by

1 any elector in the United States service by the federal post 2 card application or by any written request signed by the applicant, addressed to the registrar of the applicant's residence." 5 Section 2. Section 23-3706, R.C.M. 1947, is amended to read as follows: 7 "23-3706. Mailing ballot to elector--affidavit 8 affirmation -- electors in the United States service. Either 'upon receipt of the application or immediately after 9 10 the official ballot for the precinct of the applicant's 11 residence has been printed, the registrar, city clerk, or clerk of a first class school district shall send by mail, 12 postage prepaid, whatever official ballots are necessary. 13

- (2) The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post-office address of the officer sending it, and upon the other side a printed affidavit affirmation in a form prescribed by the secretary of state.
- (3) Both the envelope in which the ballot is mailed to an elector in the United States service and the return envelope shall have printed across the face two parallel horizontal red bars, each one-quarter (1/4) inch wide, extending from one side of the envelope to the other, with an intervening space of one-quarter (1/4) inch, with the words "Official Election Ballot Material--via Air Mail,"

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1	between the bars. In the upper right-hand corner shall be
2	printed "Free of U.S. 'Postage." In the upper left-hand
3	corner shall be blanks sufficient for the recipient to place
£ 4	his return address. All printing on the face of the
5	envelope shall be in red. The gummed flap of the envelope
6	supplied for the return of the ballot shall be separated by
7	wax paper or other appropriate protective insert. Voting
8	instructions provided in subparagraph (5) of this section
9	shall include a procedure to be followed by absentee voters,
10	such as notation of the facts on the back of the envelope
11	duly signed by the voter and-witnessingofficer, in
12	instances of adhesion of the balloting material.

13 (4) The return address shall be self-addressed to the 14 registrar or city clerk.

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- (5) Instructions for voting shall be enclosed with the ballots for electors in the United States service. 17 Instructions shall include information concerning the type or types of writing instruments which may be used to mark 18 the absentee ballot."
- 20 Section 3. Section 23-3707, R.C.M. 1947, is amended to read as follows: 21
- "23-3707. Marking and swearing affirming to ballot by 22 23 elector. (1) The elector shall complete the affidavit 24 before--an--officer--authorized--by--law--at--the--place--of 25 execution -- to -- administer -- eaths, affirmation at the time he

	1	executes	his	vote.
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- 2 (2) The elector shall mark each ballot in-the--presence of--the--officer--only, in a manner so the-officer-cannot no 3 other person can see the vote.
- (3) The ballot-shall-be-folded-by--the elector shall 5 fold the ballot to conceal the vote in-the-presence-of-the officer and the-elector shally-in-the--officer's--presence; place it in the envelope and seal it.
- 9 (4) The officer elector shall sign at the end of the 10 certificate and affidavit: affirmation.
- 11 (5) The elector shall mail the envelope, postage prepaid, or deliver it to the registrar, city clerk, or 12 clerk of a first class school district." 13
- Section 4. Section 23-3712, R.C.M. 1947, is amended to 14 read as follows: 15
  - "23-3712. Voting before election day by prospective absentee or physically incapacitated elector. (1) An elector who is present in his county after the official ballots of his county or school district have been printed who has reason to believe that he will be absent from the county or school district or physically incapacitated on election day, may vote before election day before the registrar, city
- 23 clerk, or school district clerk, or some-officer-authorized
- 24 to-administer--eaths--and--having--the--official--seal; the
- 25 respective deputy.

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- 1 (2) The provisions of this chapter apply to such 2 voting.
- 3 (3) If the ballot is marked before the registrar, city,
  4 clerk, or school district clerk, or the respective deputy,
  5 he shall deal with it in the same manner as if it had come
  6 by mail."
- 7 Section 5. Section 23-3713, R.C.M. 1947, is amended to 8 read as follows:

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- "23-3713. Envelopes containing ballots--deposit in box and rejection of ballot. (1) While the polls are open on election day, the election judges shall first open the outer envelope only, and compare the signature of the voter on the application and on the affidavit affirmation.
- (2) If the election judges find that the signatures correspond, that the affidevit affirmation is sufficient, and that the absentee elector is qualified and has not yet voted, they shall open the absentee voter's envelope and take out the ballot or ballots and, without unfolding it or permitting it to be examined, ascertain whether the stub is still attached and whether the number corresponds to the number in the certificate of the registrar or city clerk.
- other ballots are endorsed, detach the stub, deposit the ballots in the proper ballot boxes, and make entries in their election records to show the elector has voted.

- 1 (4) If the affidavit affirmation is found defective,
  2 the numbers do not correspond, or the voter is unqualified,
  3 the election judges, without opening the absentee ballot,
  4 shall mark across the face of it "rejected as defective" or
  5 "rejected as not an elector."
- 6 (5) The absentee ballot envelope, when it has been
  7 voted or rejected, shall be deposited in the ballot box
  8 containing the general or party ballots, and shall be
  9 retained and preserved in the manner provided for official
  10 ballots.
- 11 (6) If, upon opening the absentee ballot envelope, it 12 is found that the stub of any ballot has been detached, or 13 that the number does not correspond to the number on the 14 certificate of the registrar or clerk, the ballot shall be 15 rejected. It shall be marked on back as "rejected for 16 ...., filling the blank with the reason. This statement 17 shall be dated and signed by a majority of the election 18 judges.
- 19 (7) The rejected ballots, together with the absentee
  20 ballot envelope bearing the application shall be enclosed in
  21 an envelope, sealed, and the judges shall write on the
  22 envelope, "rejected ballot of absentee voter" (writing in
  23 the elector's name). "The rejected ballot(s) is (are)
  24 ...."
- 25 (8) The election judges shall designate the rejected

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1	ballot as *general ballot	," if	it is a	a ballot for	candidates
2	that are rejected.				

- 3 (9) If the rejected ballot is on a question submitted to the vote of the electors, the judges shall designate it 5 as ballot question No. .... in the certificate on the 6 envelope.
- 7 (10) A separate enclosing envelope shall be used for 8 each absentee ballot rejected. This envelope shall be 9 placed in the envelope in which the other ballots voted are 10 required to be placed and shall not be opened without a 11 court order.
- 12 (11) The registrar or clerk shall provide and deliver 13 to the election judges suitable envelopes for enclosing 14 rejected absentee ballots."
- 15 Section 6. Section 23-3717, R.C.M. 1947, is amended to 16 read as follows:
- 17 "23-3717. False swearing affirmation perjury--official misconduct a misdemeanor. (1) If a person willfully swears 18 19 falsely-te-any--affidavitt- makes false statements in an 20 affirmation required by this chapter he is quilty of 21 perjury.
- 22 (2) If the registrar, clerk, or any election officer:
- 23 (a) Refuses or neglects to perform any 24 prescribed by this act.
- 25 (b) Makes false statements in his certificate regarding SB 189

l affidavits affirmation
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- 2 (c) Looks at any marks made by the voter upon the 3 ballot,
- (d) Allows any person other than the voter to be 5 present at the marking of such ballot,
- 6 (e) Sees any marks made by the voter on the ballot, he is quilty of a misdemeanor and upon conviction shall be fined not more than five hundred collars (\$500), imprisoned 9 in the county jail for not more than six (6) months, or both." 10
- 11 Section-7---Section-23-37227-R:CrM:-19477-is-amended-to 12 read-as-follows:
  - #23-3722;--Method-of-registration-of-voter-absent--from county; --- (1) -- An -- elector -- who -- is -- unable- to -make-personal application-for-registration-by-reason-of-being-absent--from the -- county -- may -- register -- to -- vote -- prior - to - the -close - of registration-before-any-election; --by--appearing; --executing and--verifying--under--oathy-before-a-notary-public-or-other officer-empowered-to-administer--oaths; completing at--any place--within--the--United--States, --a--registration-card-as provided-in-sections-23-3701-through-23-3723;
- 22 (2)-He-mast-return-the-card-in-sufficient-time-to-reach . 23 the-registrar-before-the-close-of-registration-
  - 13)-The-elector's--name--may--not--be--entered--in--the official-register-until-at-least-two-{2}-registered-electors

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of-the-county-in-which-the-elector-desiring-to-be-registered
has-his-place-of-residence-as-stated-in-his-application-for
registration;--appear--before---the---registrar---and---make
affidavits--in--writing;--stating--that--they-are-personally
acquainted-with-the-applicant;-are-familiar--with--and--know
his--signature;--and--have--seen--him--write--and--that--the
signature---subscribed---to---the---application---or [for]
registration-is-the-signature-of-the-elector;"

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-End-

## HOUSE OF REPRESENTATIVES

March 6, 1975

HOUSE COMMITTEE ON JUDICIARY AMENDMENTS TO SENATE BILL NO. 189.

Be amended in the third reading bill as follows:

- 1. Amend page 4, section 4, subsection (1), line 23.
  Following: "clerk"
  Strike: ", or"
  Insert: "or"
- 2. Amend page 4, section 4, subsection (1), line 23.
  Following: "district clerk"
  Strike: ", or"
- 3. Amend page 4, section 4, subsection (1), lines 24 and 25.
  Following: "seal."
  Strike: "the respective deputy"
- 4. Amend page 4, section 4, subsection (3), line 4.
  Following: "clerk"
  Strike: ", er"
  Insert: "or"
- 5. Amend page 4, section 4, subsection (3), line 4. Following: "district clerk,"

  Strike: "or the respective deputy,"

AS SO AMENDED IN

1	SENATE BILL NO. 189	
2	INTRODUCED BY LYNCH	
3		
4	A BILL FOR AN ACT ENTITLED: "AN ACT AME	NDING SECTIONS
5	23-3704, 23-3706, 23-3707, 23-3712, 23-371	3, <u>AND</u> 23-3717,
6	ANB-23-37227 R.C.M. 1947, TO PROVIDE THAT	ABSENTEE VOTER
7	APPLICATION FORMS AND BALLOT ENVELOPES SHALL	BE AFFIRMED BY
3	THE ABSENTEE ELECTOR."	
9		
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE	OF MONTANA:
11	Section 1. Section 23-3704, R.C.M. 1947	, is amended to
12	reai as follows:	
13	*23-3704. Form of applicationaffide	wit manner.
14	(1) Application for absentee ballots sha	all be made on a
15	form furnished by the registrar of the county	of which the
16	applicant is an elector, the city clerk, or o	lerk of a first
17	class school district. The form shall be pr	escribed by the
18	secretary of state except as provided in sect	ion 23-3702.
19	(2) The applicant shall subscribe the a	application and
20	swear-to-it-before-an-officer-authorized-to-s	dminister-eaths
21	affirming that the information contained in	the application
22	is true and complete to the best of his k	nowledge. The
23	application is not complete without	this affidavit
24	affirmation.	
25	(3) Application for an absentee ballot	mass he made his

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      any elector in the United States service by the federal post
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      residence."
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      read as follows:
           "23-3706. Mailing
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      an elector in the United States service and the return
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      envelope shall have printed across the face two parallel
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card application or by any written request signed by the applicant, addressed to the registrar of the applicant's Section 2. Section 23-3706, R.C.M. 1947, is amended to ballot to elector--affidavit affirmation -- electors in the United States service. Either upon receipt of the application or immediately after the official ballot for the precinct of the applicant's residence has been printed, the registrar, city clerk, or clerk of a first class school district shall send by mail, postage prepaid, whatever official ballots are necessary. (2) The proper officer shall enclose an envelope with the ballots which has written on the front the name, title, and post-office address of the officer sending it, and upon the other side a printed affidavit affirmation in a form prescribed by the secretary of state. (3) Both the envelope in which the ballot is mailed to

horizontal red bars, each one-quarter (1/4) inch wide.

extending from one side of the envelope to the other, with

an intervening space of one-quarter (1/4) inch, with the

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1	between the bars. In the upper right-hand corner shall be
2	printed "Free of U.S. Postage." In the upper left-hand
3	corner shall be blanks sufficient for the recipient to place
4	his return address. All printing on the face of the
5	envelope shall be in red. The gummed flap of the envelope
6	supplied for the return of the ballot shall be separated by
7	wax paper or other appropriate protective insert. Voting
8	instructions provided in subparagraph (5) of this section
9	shall include a procedure to be followed by absentee voters,
10	such as notation of the facts on the back of the envelope
11	duly signed by the voter andwitnessingefficer, in
12	instances of adhesion of the balloting material.

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- 13 (4) The return address shall be self-addressed to the 14 registrar or city clerk.
  - (5) Instructions for voting shall be enclosed with the ballots for electors in the United States service. Instructions shall include information concerning the type or types of writing instruments which may be used to mark the absentee ballot."
- Section 3. Section 23-3707, R.C.M. 1947, is amended to 20 21 read as follows:
- "23-3797. Marking and swearing affirming to ballot by 22 23 elector. (1) The elector shall complete the affidavit 24 before--an--officer--authorized--by--law--at--the--slace--of execution -- to -- administer -- oaths: affirmation at the time he 25

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- 2 (2) The elector shall mark each ballot in-the--presence of--the--officer--only, in a manner so the officer-cannot no other person can see the vote.
- (3) The bailot-shall-be-folded-by--the elector shall 5 fold the ballot to conceal the vote in-the-presence-of-the 7 officer and the elector shally in the -officer's -- presence, place it in the envelope and seal it.
- g (4) The officer elector shall sign at the end of the 10 certificate and affidavity affirmation.
- 11 (5) The elector shall mail the envelope, postage 12 prepaid, or deliver it to the registrar, city clerk, or clerk of a first class school district." 13
- Section 4. Section 23-3712, R.C.M. 1947, is amended to 14 15 read as follows:
  - \*23-3712. Voting before election day by prospective absentee or physically incapacitated elector. (1) An elector who is present in his county after the official ballots of his county or school district have been printed who has reason to believe that he will be absent from the county or school district or physically incapacitated on election day, may vote before election day before the registrar, city clerky---or OR school district clerky--or some--officer authorized-to-administer-oaths-and-having-the-official-scal; the-respective-deputy.

- 1 (2) The provisions of this chapter apply to such 2 voting.
- 3 (3) If the ballot is marked before the registrar, city
  4 clerky-er OR school district clerk, er-the-respective
  5 deputyy he shall deal with it in the same manner as if it
  6 had come by mail.
- 7 Section 5. Section 23-3713, R.C.M. 1947, is amended to 8 read as follows:

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- \*23-3713. Envelopes containing ballots--deposit in box and rejection of ballot. (1) While the polls are open on election day, the election judges shall first open the outer envelope only, and compare the signature of the voter on the application and on the affidavit affirmation.
- (2) If the election judges find that the signatures correspond, that the affidavit affirmation is sufficient, and that the absentee elector is qualified and has not yet voted, they shall open the absentee voter's envelope and take out the ballot or ballots and, without unfolding it or permitting it to be examined, ascertain whether the stub is still attached and whether the number corresponds to the number in the certificate of the registrar or city clerk.
- (3) If so, they shall endorse it the same way that other ballots are endorsed, detach the stub, deposit the ballots in the proper ballot boxes, and make entries in their election records to show the elector has voted.

- 1 (4) If the affidavit affirmation is found defective,
- 2 the numbers do not correspond, or the voter is unqualified,
- 3 the election judges, without opening the absentee ballot,
- 4 shall mark across the face of it "rejected as defective" or
- 5 "rejected as not an elector."
- 6 (5) The absentee ballot envelope, when it has been
- 7 voted or rejected, shall be deposited in the ballot box
- 8 containing the general or party ballots, and shall be
- 9 retained and preserved in the manner provided for official
- 10 ballots.
- 11 (6) If, upon opening the absentee ballot envelope, it
- 12 is found that the stub of any ballot has been detached, or
- 13 that the number does not correspond to the number on the
- 14 certificate of the registrar or clerk, the ballot shall be
- 15 rejected. It shall be marked on back as "rejected for
- 16 ..., filling the blank with the reason. This statement
- 17 shall be dated and signed by a majority of the election
- 18 judges.
- 19 (7) The rejected ballots, together with the absentee
- 20 ballot envelope bearing the application shall be enclosed in
- 21 an envelope, sealed, and the judges shall write on the
- 22 envelope, "rejected ballot of absentee voter" (writing in
- 23 the elector's name). "The rejected ballot(s) is (are)
- 24 .....\*
- 25 (8) The election judges shall designate the rejected

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-6-

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1

1	ballot as "general ballot," if it is a ballot for candidates
2	that are rejected.

- 3 (9) If the rejected ballot is on a question submitted to the vote of the electors, the judges shall designate it 5 as ballot question No. ... in the certificate on the envelope.
- 7 (10) A separate enclosing envelope shall be used for 8 each absentee ballot rejected. This envelope shall be 9 placed in the envelope in which the other ballots voted are 10 required to be placed and shall not be opened without a 11 court order.
- 12 (11) The registrar or clerk shall provide and deliver 13 to the election judges suitable envelopes for enclosing 14 rejected absentee ballots."
- 15 Section 6. Section 23-3717, R.C.M. 1947, is amended to 16 read as follows:
- 17 \*23-3717. False swearing affirmation perjury--official 18 misconduct a misdemeanor. (1) If a person willfully swears 19 falsely--to--any--affidavitt- makes false statements in an 20 affirmation required by this chapter he is quilty of 21 perjury.
  - (2) If the registrar, clerk, or any election officer:
- (a) Refuses or neglects to perform any duties 23 24 prescribed by this act.

22

25 (b) Makes false statements in his certificate regarding

2	(c)	Looks at	any	marks	made	by	the	voter	upon	the
3	ballot,									
4	(d)	Allows	any	person	n oth	er	than	the '	voter	to be
5	present a	at the ma	rking	g of suc	ch bal	lot,				

affidavits affirmations,

- б (e) Sees any marks made by the voter on the ballot, he 7 is quilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500), imprisoned 9 in the county jail for not more than six (6) months, or both. " 10
- 11 Section-7--- Section-23-37227-R:G:M:-1947;-is-amended-to 12 read-as-follows:

13 #23-3722:--Method-of-registration-of-voter-absent--from 14 county----(1)--An--elector--who--is--unable-to-make-personal 15 application-for-registration-by-reason-of-being-absent--from 16 the--county---may--register--to--vote--prior-to-the-close-of 17 registration-before-any-election; --by--appearing; --executing and--verifying--under--oathy-before-a-notary-sublic-or-other 18 19 officer-empowered-to-administer--oaths; completing at--any 20 place--within--the--United--States, --a--registration-card-as 21 provided-in-sections-23-3781-through-23-3723-

- 22 42)-He-must-return-the-card-in-sufficient-time-to-reach 23 the-registrar-before-the-close-of-registration:
- 24 43)-The-elector's--name--may--not--be--entered--in--the official-register-until-at-least-two-421-registered-electors

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	of-the-county-in-which-the-elector-desiring-to-be-registered
?	hashis-place-of-residence-as-stated-in-his-application-for
1	registrationyappearbeforetheregistrarandmake
;	affidavitsinwriting;statingthatthey-are-personally
5	acquainted-with-the-applicanty-are-familiarwithandknow
;	hissignature;andhaveseenhimwriteandthatthe
,	signaturesubscribedtotheapplicationor [for]
3	registration-is-the-signature-of-the-elector+"

-End-

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