

1 law, but does not include a candidate for national office
2 who is subject to the provisions of federal election
3 campaign laws.

4 ~~(2)~~ ~~"Commissioner" means the commissioner of campaign~~
5 ~~finances and practices as described in section 22-4785.~~

6 ~~(3)~~ (2) "Election" means a general, special, or primary
7 election held to choose a public officer or submit an issue
8 for the approval or rejection of the people.

9 ~~(4)~~ (3) "Issue" or "ballot issue" means a proposal
10 submitted to the people at an election for their approval or
11 rejection including, but not limited to, initiatives,
12 referenda, proposed constitutional amendments, recall
13 questions, school levy questions, bond issue questions, or a
14 ballot question.

15 ~~(5)~~ (4) "Public office" means a state, county,
16 municipal, school, or other district office that is filled
17 by the people at an election.

18 ~~(6)~~ (5) "Contribution" means:

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

22 (b) a transfer of funds between political committees;

23 (c) the payment by a person other than a candidate or
24 political committee of compensation for the personal
25 services of another person that are rendered to a candidate

1 or political committee; but

2 (d) ~~"contribution" does not mean~~ services provided
3 without compensation by individuals volunteering a portion
4 or all of their time on behalf of a candidate or political
5 committee, ~~or~~ or meals and lodging provided by individuals
6 in their private residence for a candidate or other
7 individual.

8 ~~(7)~~ (6) "Expenditure" means a purchase, payment,
9 distribution, loan, advance, promise, pledge, or gift of
10 money or anything of value made for the purpose of
11 influencing the results of an election, but "expenditure"
12 does not mean:

13 (a) services, food, or lodging provided in a manner
14 that they are not contributions under ~~this act, see~~
15 subsection (5); or

16 (b) payments by a candidate for his personal travel
17 expenses or for food, clothing, lodging, or personal
18 necessities for himself and his family.

19 ~~(8)~~ (7) "Anything of value" means any goods that have a
20 certain utility to the recipient that is real and that
21 ordinarily is not given away free, but is purchased.

22 ~~(9)~~ (8) "Political committee" means a combination of
23 two or more individuals, or a person other than an
24 individual, the primary or incidental purpose of which is to
25 support or oppose a candidate or issue or to influence the

1 result of an election by any expenditure.

2 ~~(40)~~ (9) "Individual" means a human being.

3 ~~(44)~~ (10) "Person" means an individual, corporation,
4 association, firm, partnership, cooperative, committee,
5 club, union, or other organization or group of individuals,
6 or a candidate as defined in subsection (1) of this
7 section."

8 Section 3. There is a new R.C.H. section that reads as
9 follows:

10 Commissioner of campaign finances and practices. In
11 23-4778 through 23-4795, "commissioner" means the
12 commissioner of campaign finances and practices created by
13 23-4785(1), unless the context clearly indicates otherwise.

14 Section 4. Section 23-2605, R.C.H. 1947, is amended to
15 read as follows:

16 "23-2605. Time of opening and closing of polls. (1)
17 Except as provided in subsection (2) ~~of this section~~:

18 (a) ~~The in precincts having 100 or more registered~~
19 electors, the polls must be opened at 8 a.m. on the morning
20 of election day, and must be kept open continuously until 8
21 p.m. of that day;

22 (b) ~~In in~~ precincts having less than ~~one hundred~~ (100)
23 registered electors, the polls must be opened at 1 p.m. and
24 closed at 8 p.m. of that day;

25 (c) ~~Whenever whenever~~ all registered electors in any

1 precinct have voted, the polls shall be closed immediately.

2 (2) If a special election is held by a county, city,
3 high school district, or school district on the question of
4 incurring an indebtedness or making a special or additional
5 levy for any purpose, the polls shall open at 12 noon and be
6 kept open continuously until 8 p.m. However, the poll hours
7 shall be as specified in subsection (1) ~~of this section~~ if
8 the election is held on the same day, at the same polling
9 places, and with the same judges and clerks as a general,
10 county, school, or city election."

11 Section 5. Section 23-2704, R.C.H. 1947, is amended to
12 read as follows:

13 "23-2704. Notice and closing of registration for
14 elections on incurring of state indebtedness ~~other than for~~
15 ~~refunding or levy of tax.~~ (1) If the question of state
16 indebtedness, issuance of bonds or debentures other than for
17 refunding, or the levy of a tax for state purposes, is
18 submitted at an election other than a general biennial
19 election, the registrar of each county shall publish in ~~the~~
20 ~~official county~~ a newspaper, of general circulation in the
21 county a notice signed by him, stating that registration
22 will close at noon on the ~~fortieth~~ (40th) day prior to the
23 date of the election unless the act providing for the
24 submission of the question fixes a different time for the
25 giving of notice. The notice shall be published ~~ten~~ (10)

1 days or more prior to the date when registration will be
2 closed unless the act providing for submission of the
3 question fixes a different time for closing registration.

4 (2) If the question is to be submitted at a general
5 biennial election, notice and the closing of registration
6 shall be governed by the laws applying to general biennial
7 elections. The provisions of ~~sections 37-107, R. C. M., 1947~~
8 apply to the printing and distribution of copies of the
9 proposed law."

10 Section 6. Section 23-2802, R.C.M. 1947, is amended to
11 read as follows:

12 "23-2802. Publication and printing of amendments to
13 constitution. If a proposed constitutional amendment or
14 amendments are submitted to the people, the secretary of
15 state shall

16 ~~(1) Have~~ have the proposed amendment or amendments
17 published in full twice each month for ~~two~~ ~~(2)~~ months
18 previous to the election at which they are to be voted upon
19 by the people in not less than one ~~(1)~~ newspaper ~~commonly~~
20 circulated of general circulation in each county.

21 ~~(2) Have a pamphlet printed containing an exact copy~~
22 ~~of the proposed amendment or amendments, an exact copy of~~
23 ~~existing constitutional provisions to be revised, and the~~
24 ~~amendment or amendments in the form in which it or they will~~
25 ~~be printed on the official ballot. The printed pamphlets~~

1 ~~shall be distributed as provided in section 37-107, R.C.M.~~
2 ~~1947."~~

3 Section 7. Section 23-2901, R.C.M. 1947, is amended to
4 read as follows:

5 "23-2901. Election proclamation by the
6 governor ~~contents~~. Sixty ~~(60)~~ days or more before a general
7 election, the governor shall issue an election proclamation
8 and transmit a copy to each board of county commissioners.
9 The proclamation shall contain:

10 (1) ~~a~~ a statement of the time of the election and the
11 offices to be filled;

12 (2) ~~an~~ an offer of rewards stating: "There is a reward
13 of ~~one hundred dollars~~ ~~(\$100)~~ for the arrest and conviction
14 of any person violating any of the provisions of ~~sections~~
15 ~~24-1401 through 24-1424, R. C. M., 1947~~ Title 23 or Title 37.
16 Rewards will be paid until the total amount expended reaches
17 the sum of ~~five thousand dollars~~ ~~(\$5,000).~~"

18 Section 8. Section 23-3002, R.C.M. 1947, is amended to
19 read as follows:

20 "23-3002. County clerk as county registrar. (1) Each
21 county clerk and recorder is ex officio county registrar. He
22 shall serve without extra pay or compensation.

23 ~~(a) Serve without extra pay or compensation;~~

24 ~~(b) Have custody of registration books, cards, and~~
25 ~~other records provided for by this act.~~

1 (2) The official register of electors is an official
2 record of the county clerk and recorder.

3 ~~(3) Unless otherwise provided, the county clerk and~~
4 ~~recorder shall have custody of registration books, cards,~~
5 ~~and other records required by the election laws of this~~
6 ~~state."~~

7 Section 9. Section 23-3003, R.C.M. 1947, is amended to
8 read as follows:

9 "23-3003. ~~Notaries public as deputy Deputy~~ registrars
10 ~~appointments of additional deputies qualifications~~
11 ~~duties.~~ (1) All notaries public are deputy registrars in the
12 county in which they reside. ~~They may register electors~~
13 ~~residing in any precinct within the county. No notary~~
14 ~~public may register any voter until he has been issued a~~
15 ~~certificate of approval by the county registrar certifying~~
16 ~~that he has received instructions on registration procedure~~
17 ~~from the county registrar.~~

18 (2) The commissioners shall appoint a minimum of two
19 ~~(2)~~ deputy registrars who are not notaries public, a minimum
20 of one ~~(1)~~ from each of the two ~~(2)~~ major political parties,
21 for each precinct in the county from lists of persons
22 recommended by the political parties. If the parties fail to
23 submit lists, the commissioners shall appoint deputy
24 registrars without recommendations from the parties. The
25 number of appointed deputy registrars for each county shall

1 always be equally divided between the two ~~(2)~~ major
2 political parties. ~~It is appointed~~ deputy registrar shall

3 ~~(a) Be he~~ a qualified resident elector in the precinct
4 for which he is appointed.

5 ~~(b) Register electors residing in any precinct in the~~
6 ~~county.~~

7 ~~(c) No duly appointed deputy registrar shall register~~
8 ~~any voter until such deputy registrar shall have been issued~~
9 ~~a certificate of approval by the county registrar,~~
10 ~~certifying that said deputy registrar has received~~
11 ~~instructions on registration procedure from the county~~
12 ~~registrar.~~

13 ~~(3) No deputy registrar may register a voter until~~
14 ~~that deputy registrar has been issued a certificate of~~
15 ~~approval by the county registrar certifying that the deputy~~
16 ~~registrar has received instructions on registration~~
17 ~~procedure from the county registrar.~~

18 ~~(4) A deputy registrar who has been issued the~~
19 ~~certificate required by subsection (3) may register electors~~
20 ~~residing in any precinct of the county for which he is a~~
21 ~~deputy registrar.~~

22 ~~(3) (5)~~ Within ~~three (3)~~ days after a registration card
23 is filled out, deputy registrars shall forward the card to
24 the registrar. Registration cards properly executed prior to
25 the registration deadline shall be accepted by the registrar

1 for ~~three~~-(3) days after the deadline."

2 Section 10. Section 23-3014, R.C.M. 1947, is amended
3 to read as follows:

4 "23-3014. Cancellation of ~~registry~~ registration for
5 other reasons—~~reregistration~~. (1) The registrar shall
6 cancel any registration card:

7 (a) ~~At~~ at the written request of the person
8 registered;

9 (b) ~~When~~ if a certificate of the death of any elector
10 is filed or if an elector is reported as deceased by the
11 department of health and environmental sciences in the
12 department's reports submitted to the county under 91-4459;

13 (c) ~~Within whenever forty-five~~-(45) days or more prior
14 to the closing of registration, three ~~(3)~~ qualified
15 registered electors residing within the precinct ~~may~~
16 challenge an elector by filing affidavits giving the name of
17 the challenged elector, his registry number, his residence,
18 and stating of the personal knowledge of the affiant the
19 person registered does not reside at the place designated on
20 his registration card;

21 (d) ~~When~~ whenever the insanity of the elector is
22 legally established;

23 (e) ~~If~~ whenever a certified copy of a final judgment
24 of conviction of any elector of a felony is filed; or

25 (f) ~~If~~ whenever a certified copy of a court order

1 directing the cancellation is filed with the registrar.

2 (2) Within ~~thirty~~-(30) days after registration has
3 been canceled, the registrar shall send written notice to
4 the elector at the address shown on the registration card.
5 If a person proves to the registrar that he is qualified, he
6 may reregister.

7 ~~(2) At the close of registration, the court clerk of~~
8 ~~each county shall send a list of those electors whose~~
9 ~~registrations have been cancelled due to a felony conviction~~
10 ~~to the secretary of state. The secretary of state shall~~
11 ~~compile a list of all such electors and send a copy of the~~
12 ~~list to each registrar."~~

13 Section 11. Section 23-3015, R.C.M. 1947, is amended
14 to read as follows:

15 "23-3015. Challenges prior to election — ~~registrar's~~
16 ~~duties—challenges on election day—election judges' duties.~~

17 (1) An elector may challenge the qualifications of another
18 elector any time not later than ~~twenty~~-(20) days prior to an
19 election. The challenge must:

20 (a) ~~Be~~ be filed with the registrar and be signed by
21 the elector;

22 (b) ~~Be~~ be verified by the affidavit of the elector
23 that the elector designated is not entitled to vote;

24 (c) ~~State~~ state the grounds of the challenge,
25 objection, and disqualification.

1 ~~(d) Notify the elector within five (5) days by~~
 2 ~~registered United States mail that his qualifications as an~~
 3 ~~elector have been challenged.~~

4 (2) The registrar shall:

5 (a) ~~file~~ file the affidavit of challenge in his
 6 office;

7 (b) ~~Deliver~~ deliver a correct copy of the affidavit to
 8 the judges of election together with a copy of the precinct
 9 registers, check lists, and other documents;

10 (c) ~~Write~~ write opposite the name of any person whose
 11 qualifications are challenged the words, "to be
 12 challenged";

13 ~~(d) notify the elector within 5 days by certified or~~
 14 ~~registered mail that his qualifications as an elector have~~
 15 ~~been challenged.~~

16 (3) An elector's right to vote may ~~also~~ be challenged
 17 on election day by any registered elector by orally stating
 18 to the election judges the grounds of the challenge.

19 (4) The election judges shall:

20 (a) ~~Test~~ test the qualifications of the elector
 21 challenged under oath if he applies to vote;

22 (b) ~~Compare~~ compare the answers of the elector with
 23 the entries in the precinct register books; and

24 (c) ~~Not~~ not permit him to vote if the elector is found
 25 to be disqualified because the answers given do not

1 correspond to the entry in the precinct registers, or the
 2 elector is disqualified for any cause under the law, or he
 3 refuses to take an oath or affirmation as to his
 4 qualifications.

5 (5) The election judges may require the challenged
 6 elector to produce one ~~(4)~~ or more ~~elector~~ electors of the
 7 county to be examined under oath as to the qualifications of
 8 the challenged elector, and may also request assistance from
 9 the county attorney and the registrar in determining the
 10 elector's qualifications."

11 Section 12. Section 23-3018, R.C.M. 1947, is amended
 12 to read as follows:

13 "23-3018. Name on precinct register prima facie
 14 evidence of right to vote ~~—elector's identity—election~~
 15 ~~judges' duties as to precinct register.~~ (1) A person shall
 16 may not vote at an election mentioned in ~~this act~~ Title 23
 17 or Title 37 unless his name appears on election day in the
 18 copy of the official precinct register furnished by the
 19 registrar to the election judges. The fact that his name
 20 appears in the copy of the precinct register is prima facie
 21 evidence of his right to vote.

22 (2) If the election judges have good reason to
 23 believe, or if they are informed by a qualified elector that
 24 the person offering to vote is not the person registered in
 25 that name, he shall may not be allowed to vote until he has

1 proved his identity by the oath of two ~~(2)~~ reputable
2 electors of the precinct in which he is registered.

3 ~~(2) The election judges in each precinct at every~~
4 ~~general or special election in a precinct register certified~~
5 ~~to them by the registrar shall:~~

6 ~~(a) Mark a cross (X) upon the line opposite the name~~
7 ~~of the elector;~~

8 ~~(b) Require the elector to sign his name upon one of~~
9 ~~the precinct registers;~~

10 ~~(c) Require an elector, who is not able to sign his~~
11 ~~name, to produce two (2) electors who shall make an~~
12 ~~affidavit before the election judges in a form prescribed by~~
13 ~~the secretary of state. One of the election judges shall~~
14 ~~write on the affidavit the elector's name, state his~~
15 ~~inability to sign, and the names of the electors making~~
16 ~~affidavits. The affidavits shall be returned to the~~
17 ~~registrar with the other election records."~~

18 Section 13. Section 23-3026, R.C.M. 1947, is amended
19 to read as follows:

20 "23-3026. Commissioners to provide registrar with
21 sufficient help. The commissioners shall provide the
22 registrar with sufficient help for the duties imposed by
23 ~~this act Title 23 or Title 37.~~ The cost of stationery,
24 printing, publishing, and posting ~~are~~ is a proper charge
25 against the county."

1 Section 14. Section 23-3304, R.C.M. 1947, is amended
2 to read as follows:

3 "23-3304. Declaration of nomination ~~filing fees~~
4 ~~printing of victorious write-in candidates on general~~
5 ~~election ballot. (1) Each candidate in the primary election,~~
6 shall send a declaration of nomination to the secretary of
7 state, registrar, or city clerk. Each candidate for
8 governor must send a joint declaration of nomination with a
9 candidate for lieutenant governor.

10 (2) Each candidate must sign the declaration and send
11 with it the required filing fee, or in the case of a
12 candidate who cannot afford the filing fee, send with it the
13 documents required in lieu of a filing fee. The declaration
14 of nomination shall be acknowledged by a notary public if
15 sent by mail, or by the officer of the office at which the
16 filing is made.

17 (3) The declaration, when filed, is conclusive
18 evidence that the elector is a candidate for nomination by
19 his party.

20 (4) Nominating declarations are filed:

21 (a) ~~In~~ in the office of secretary of state for
22 congressional offices, state or district offices to be voted
23 for in more than one ~~(4)~~ county, members of the ~~legislative~~
24 ~~assembly legislature~~, and judges of the district court;

25 (b) ~~In~~ in the office of the registrar for county and

1 district offices to be voted for in only one ~~(1)~~ county
2 only, other than judge of the district court, and for
3 township and precinct offices;

4 (c) ~~is~~ in the office of the city clerk for all city
5 officers.

6 (5) Filing fees are as follows:

7 (a) ~~For for~~ offices having a an annual salary of ~~one~~
8 ~~thousand dollars~~ ~~(\$1,000)~~ or less ~~per annum,~~ ~~ten dollars~~
9 ~~(\$10),~~ except candidates for the legislature must pay
10 ~~fifteen dollars~~ ~~(\$15);~~

11 (b) ~~For for~~ offices having a an annual salary of more
12 than ~~one thousand dollars~~ ~~(\$1,000)~~ ~~per annum,~~ ~~one per cent~~
13 ~~(1%)~~ of the total annual salary;

14 (c) ~~For for~~ the offices office of county
15 commissioner~~;~~

16 (i) in counties of the first class, ~~forty dollars~~
17 ~~(\$40)~~~~;~~

18 (ii) in counties of the second class, ~~thirty-five~~
19 ~~dollars~~ ~~(\$35)~~~~;~~

20 (iii) in counties of the third class, ~~thirty dollars~~
21 ~~(\$30)~~~~;~~

22 (iv) in counties of the fourth class, ~~twenty-five~~
23 ~~dollars~~ ~~(\$25)~~~~;~~

24 (v) in counties of other classes, ~~ten dollars~~ ~~(\$10);~~

25 (d) ~~For for~~ offices in which compensation is paid in

1 fees, ~~five dollars~~ ~~(\$5);~~

2 (e) ~~For for~~ state, county, and precinct committeemen,
3 delegates to national conventions, and presidential
4 electors, no fees are required.

5 (6) A person nominated by having his name written in
6 on the primary ballot and desiring to accept the nomination
7 shall may not have his name printed on the general election
8 ballot unless he:

9 (a) ~~Files files~~ with the secretary of state,
10 registrar, or city clerk, within at least ~~ten~~ ~~(10)~~ days
11 after the primary a written declaration indicating his
12 acceptance of the nomination;

13 (b) ~~Pays pays~~ the required filing fee or if indigent,
14 complies with subsection (7);

15 (c) ~~Received received~~ at least ~~five per cent~~ ~~(5%)~~ of
16 the votes cast for the office at the last preceding general
17 election.

18 (7) ~~Indigent candidates.~~ If a person is unable to pay
19 a filing fee, the filing officer shall accept the following
20 documents in lieu of a filing fee:

21 (a) from a write-in candidate, a verified statement
22 that he is unable to pay the filing fee;

23 (b) from a candidate for nomination, a verified
24 statement that he is unable to pay the filing fee and a
25 written petition for nomination as a candidate that meets

1 the following requirements:

2 (i) contains the name of the office to be filled, the
3 candidate's name, residence, occupation, and business
4 address;

5 (ii) is signed by ~~five percent~~ (5%) or more of the
6 total vote cast for the successful candidate for the same
7 office at the next preceding general election; and

8 (iii) is signed by electors residing within the
9 political division of the state in which the candidate
10 petitions for nomination.

11 (8) The declaration for nomination shall be in ~~the~~
12 form and contain ~~the~~ information prescribed by the
13 secretary of state. Every declaration must be signed by the
14 elector seeking nomination."

15 Section 15. Section 23-3305, R.C.M. 1947, is amended
16 to read as follows:

17 "23-3305. Deadline for filing nominating declarations
18 ~~persons with whom filed.~~ Nominating declarations shall be
19 filed not later than 5 p.m., ~~forty~~ (40) days before the date
20 of the primary election. ~~Declarations for nomination to an~~
21 ~~office filled by election throughout the state, as judge of~~
22 ~~a district court, to an office filled by election in more~~
23 ~~than one (1) county, or as a member of the legislative~~
24 ~~assembly shall be filed with the secretary of state.~~
25 ~~Declarations for nomination to an office filled by election~~

1 ~~in one (1) county, or district or city shall be filed with~~
2 ~~the registrar or city clerk."~~

3 Section 16. Section 23-3308, R.C.M. 1947, is amended
4 to read as follows:

5 "23-3308. ~~Ballots, how arranged and voted~~ Arrangement
6 of ballots. (1) At the primary, there shall be a ballot for
7 each political party entitled to participate. Each ballot
8 shall be printed on a separate sheet of white paper of the
9 same size, folded, and securely fastened at the top.

10 (2) Candidates' names shall be arranged alphabetically
11 by surnames, under the offices and under the proper party
12 designation. The names of the candidates for governor and
13 lieutenant governor shall be arranged by the surname of the
14 candidate for governor. When two ~~(2)~~ or more persons are
15 candidates for nomination for the same office, the registrar
16 shall divide the ballot to provide a rotation of the names
17 of the candidates as follows:

18 (a) ~~Divide~~ divide all county ballot forms into sets
19 equal in number to the greatest number of candidates for
20 nomination or election to any office;

21 (b) ~~Arrange~~ arrange the sets so that candidates' names
22 are rotated by removing one name from the top of the list
23 for each nomination or office and place the name or number
24 at the bottom of the list for each successive set of ballot
25 forms; however, in printing ballots for use in any one ~~(1)~~

1 precinct, only one ~~(4)~~ set shall be used and they shall be
2 identical₁.

3 ~~(4)~~ (3) If an elector writes the name of a person upon
4 a ballot, and the person's name appears as a candidate upon
5 another ballot, the ballot shall count for the person only
6 as a candidate of the party upon whose ticket his name is
7 written₁.

8 ~~(4)~~ (4) If a person is nominated upon more than one ~~(4)~~
9 ticket, not later than ~~ten~~ ~~(10)~~ days after the election he
10 shall file written notification with the secretary of state,
11 registrar, or city clerk of the party under which his name
12 is to appear upon the ballot for the general election, and,
13 if he fails to notify the proper officers, his name shall
14 appear under the party with whom his nominating declaration
15 was first filed₁.

16 ~~(4)~~ (5) If a person fails to be nominated upon the
17 party ticket contained in his nominating declaration, his
18 name ~~shall~~ may not be printed upon any ballot with party
19 designation₁.

20 ~~(4)~~ (6) ~~This act does~~ Title 23 and Title 37 do not
21 preclude an elector from having his name printed upon the
22 ballot as an independent candidate, and no candidate ~~shall~~
23 may have his name printed on more than one ~~(4)~~ ticket.

24 ~~(3)~~ (7) Ballots shall be printed on white paper in the
25 form of the Australian ballot₁ and the candidates of each

1 party shall be printed on a separate ticket.

2 ~~(4)~~ (8) After preparing his ballot, the elector shall
3 detach it from the remaining tickets and fold it so that the
4 face is concealed and the official stamp is seen₁.

5 ~~(4)~~ (9) The elector shall fold the remaining tickets,
6 vote the marked ballot without leaving the polling place,
7 and deposit the remaining tickets in a separate box marked
8 as the blank ballot box₁.

9 ~~(b)~~ (10) Immediately after the recount period, ~~the~~
10 ~~election judges shall, without examination, destroy as~~
11 provided in 23-4103, the tickets deposited in the blank
12 ballot box shall be destroyed."

13 Section 17. Section 23-3311, R.C.M. 1947, is amended
14 to read as follows:

15 "23-3311. Tally sheets — keeping and announcing the
16 tally — ~~statement~~. (1) The registrar shall furnish tally
17 sheets for each political party having candidates in the
18 primary election for each voting precinct. Tally sheets
19 shall contain the names of the candidates, names of the
20 political parties designated at the head, and be numbered in
21 the order in which the names appear on the official ballot.

22 (2) Tally sheets shall show:

- 23 (a) ~~the~~ the number and name of each person voted for;
24 (b) ~~office~~ the office for nomination to which each
25 person was voted for;

1 (c) ~~Total~~ the total number of votes cast for each
2 candidate for nomination.

3 (3) The election clerks and judges shall audibly
4 announce the tally or count, and shall keep the tally in the
5 form prescribed by the secretary of state. The tally or
6 count shall be certified by the election clerks and judges.

7 (4) The election clerks shall in ink:

8 (a) ~~Keep~~ keep tally upon the prescribed tally sheet of
9 each political party;

10 (b) ~~Total~~ total the number of tallies and write the
11 total immediately to the right of the last tallies for each
12 candidate and also in the columns headed "total vote";

13 (c) ~~Prepare~~ prepare the certificate required by
14 subsection (3) ~~of this section~~;

15 (d) ~~Immediately~~ immediately upon completion of the
16 count, sign the tally sheets, and each clerk shall certify
17 which sheets were kept by him.

18 ~~(5)~~ (5) If the ~~chairman~~ and judges are satisfied with
19 the correctness of the tally sheets, they shall sign all the
20 tally sheets.

21 ~~(6)~~ (6) The election clerks shall then prepare a
22 statement of that portion of the tally sheets showing the
23 number and name and political party of each candidate for
24 nomination and the office and total votes received by each
25 in the precinct, and shall prepare the certificate. The

1 election clerks and judges who complete the count shall sign
2 the statement and immediately post it in a conspicuous place
3 outside of the polls. The statement shall remain posted for
4 ~~ten~~ (10) days."

5 Section 18. Section 23-3312, S.C.H. 1947, is amended
6 to read as follows:

7 "23-3312. Duties of election clerks and judges after
8 canvassing votes -- seal. (1) Immediately after canvassing
9 votes, the election clerks and judges who complete the count
10 shall enclose the pollbooks in separate envelopes and
11 securely seal them. The election clerks and judges shall:

12 (a) ~~Enclose~~ enclose the tally sheets in separate
13 envelopes and securely seal them;

14 (b) ~~Enclose~~ enclose the precinct registers in separate
15 envelopes and securely seal them;

16 (c) ~~Enclose~~ enclose all ballots fastened together and
17 in separate envelopes and securely seal them;

18 (d) ~~Specify~~ specify in ink the contents, and address
19 each package to the registrar of the county in which the
20 election precinct is situated;

21 (e) ~~Mark~~ mark the sealed ballot packages on the
22 outside showing what numbers are contained, but once sealed
23 they ~~are~~ may not ~~be~~ be opened until ordered by the proper
24 court.

25 (2) When the count is completed, the sealed ballots

1 shall be placed in two (2) ballot boxes, the boxes locked
 2 and the seal of the board pasted over the keyhole and rim of
 3 the lid so that to open the box the seal must be broken. The
 4 registrar or ~~the canvassers~~ those persons making the
 5 abstracts of the votes shall may not break the seal, nor
 6 shall may anyone break the seal except upon court order in
 7 case of contest or on order of the commissioners when the
 8 boxes are needed for the ensuing election."

9 Section 19. Section 23-3313, R.C.M. 1947, is amended
 10 to read as follows:

11 "23-3313. Abstracts of votes, ~~==~~ when and how made —
 12 ~~decision by lot in event of tie certificate for~~
 13 ~~compensation — highest number of votes nominates.~~ (1) At 8
 14 a.m. on the third day after the close of any primary
 15 election, or at 8 a.m. on a day sooner if all the returns
 16 are in, the registrar, taking two (2) assistants who are
 17 justices of the peace, county commissioners, or either,
 18 shall open the returns and make abstracts of the votes.

19 (2) Abstracts of votes for nomination of each party
 20 for ~~governor, lieutenant governor, secretary of state,~~
 21 ~~attorney general, state auditor, superintendent of public~~
 22 ~~instruction, public service commissioners, clerk of the~~
 23 ~~supreme court, state treasurer, justices of the supreme~~
 24 ~~court, United States senators, United States~~
 25 ~~representatives, judges of the district court, and members~~

1 ~~of the legislative assembly, congressional offices, state or~~
 2 ~~district offices to be voted on in more than one county,~~
 3 ~~members of the legislature, and judges of the district court~~
 4 shall be on one (1) sheet, separately for each political
 5 party, ~~and shall be forthwith transmitted to the secretary~~
 6 ~~of state, as required by section 23-2214. The registrar,~~
 7 ~~immediately after making the abstracts of votes, shall send~~
 8 ~~by mail a copy of each of the abstracts to the secretary of~~
 9 ~~state.~~

10 (3) Abstracts of votes for county and district offices
 11 to be voted on in only one county, other than judge of the
 12 district court, and precinct offices shall be placed on
 13 separate sheets for each political party, and the registrar
 14 shall certify the nomination for each party and enter upon
 15 his register of nominations the name of each of the persons
 16 having the highest number of votes for nomination. He shall
 17 notify each person who is nominated by mail.

18 (4) If there is a tie for the same nomination in one
 19 (1) party, the registrar shall notify the affected persons
 20 to come to his office at a time set by the registrar. The
 21 registrar shall then decide publicly by lot which of the
 22 persons is the nominee. The registrar shall enter the name
 23 of the person chosen as nominee upon his register of
 24 nominations.

25 (5) The registrar shall, on receipt of the primary

1 returns, make out a certificate stating the compensation the
 2 election clerks and judges are entitled to and transmit this
 3 certificate to the commissioners. The commissioners shall
 4 order the compensation paid out of the county treasury.

5 (6) In all primary elections, the person having the
 6 highest number of votes for nomination to any office is the
 7 nominee for his political party for that office."

8 Section 20. Section 23-3314, R.C.M. 1947, is amended
 9 to read as follows:

10 *23-3314. ~~Copy of abstracts to be sent secretary of~~
 11 ~~state canvass~~ CANVASS by secretary of state -- governor's
 12 certificate of nomination and proclamation -- decision by
 13 lot in event of tie. ~~(1) The registrar, immediately after~~
 14 ~~making the abstracts of votes, shall send a copy of each of~~
 15 ~~the abstracts by mail to the secretary of state.~~

16 ~~(2) (1)~~ (1) The secretary of state shall, in the presence
 17 of the governor and the ~~state treasurer~~ superintendent of
 18 public instruction, proceed not later than ~~fifteen (15)~~ days
 19 after the date of the primary election to canvass the votes
 20 given for nomination for ~~governor and lieutenant governor,~~
 21 ~~United States senator, United States representative,~~
 22 ~~attorney general, superintendent of public instruction,~~
 23 ~~public service commissioners, secretary of state, state~~
 24 ~~treasurer, state auditor, justices of the supreme court,~~
 25 ~~clerk of the supreme court, judges of the district court,~~

1 ~~members of the legislative assembly, and all other officers~~
 2 ~~voted in any district comprising more than one county~~
 3 congressional offices, state or district offices to be voted
 4 on in more than one county, members of the legislature, and
 5 judges of the district court.

6 ~~(3) (2)~~ (2) The governor shall grant a certificate of
 7 nomination to the person having the highest number of votes
 8 for each office, and shall issue a proclamation declaring
 9 the nomination of each person by his party.

10 ~~(4) (3)~~ (3) When a tie exists between two ~~(2)~~ or more
 11 persons for nomination in the same party, the secretary of
 12 state shall immediately give notice to the persons tied, to
 13 attend in person or by attorney, at his office at a time
 14 appointed by him. He shall then publicly decide by lot which
 15 person is nominated by his party. The governor shall issue
 16 his proclamation declaring the nomination of that person."

17 Section 21. Section 23-4016, R.C.M. 1947, is amended
 18 to read as follows:

19 *23-4016. ~~State canvassers, composition~~ Composition
 20 and meeting of board of state canvassers. Within ~~twenty (20)~~
 21 days after the election, or sooner if the returns are all
 22 received, the state auditor, ~~state treasurer~~ superintendent
 23 of public instruction, and attorney general shall meet as a
 24 board of state canvassers in the office of the secretary of
 25 state and determine the vote. The secretary of state, who is

1 secretary of the board, shall make out and file in his
2 office a statement of the canvass and transmit a copy to the
3 governor."

4 Section 22. Section 23-3315, R.C.M. 1947, is amended
5 to read as follows:

6 "23-3315. Error in ballot or other wrongful or
7 neglectful act. (1) ~~Whenever the court shall order an~~
8 ~~officer or person charged with a wrongful act or neglect to~~
9 ~~perform his duties or show cause why the order should not~~
10 ~~issue whenever~~ it appears by affidavit to the district
11 court, to the supreme court, or to a supreme court judge:

12 (a) ~~That that~~ an error or omission has occurred, or is
13 about to occur, in the printing of the name of any candidate
14 or other matter on the official primary nominating election
15 ballots;

16 (b) ~~That that~~ any error has been, or is about to be,
17 committed in the printing of the ballots;

18 (c) ~~That that~~ the name of any person or any other
19 matter has been, or is about to be, wrongfully placed upon
20 the ballots;

21 (d) ~~That that~~ any wrongful act has been performed by
22 any judge or clerk of the primary election, registrar,
23 canvassing board or member, or by any person charged with a
24 duty under ~~this act~~, Title 23 or Title 37 or that any
25 neglect of duty by any of the persons has occurred or is

1 about to occur; ~~the court shall require by order the officer~~
2 ~~or person charged with the act or neglect to perform his~~
3 ~~duties required by law or show cause why the order should~~
4 ~~not issue.~~

5 (2) Failure to obey the court order is contempt.

6 (3) Any person aggrieved by the refusal or failure of
7 any person to perform any duty required by ~~this act shall~~
8 Title 23 or Title 37, without derogation of any other right
9 or remedy, ~~he is~~ entitled to seek a writ of mandamus in the
10 district court and the proceeding shall be immediately heard
11 and decided."

12 Section 23. Section 23-3316, R.C.M. 1947, is amended
13 to read as follows:

14 "23-3316. Contest — notice — hearing — how tried
15 and decided — certificate. (1) Five ~~(5)~~ days or less after
16 a person has been nominated, any person wishing to contest
17 the nomination to any state, county, district, ~~township,~~
18 precinct, or city office shall give notice in writing to the
19 person whose nomination he intends to contest briefly
20 stating the cause for the contest.

21 (2) The contestant shall make application to the
22 district court judge in the county where the contest is to
23 be had. The judge shall then set the time for the hearing.

24 (3) The contestant shall serve notice ~~three (3)~~ days
25 before the hearing is scheduled. The notice shall state the

1 time and place of the hearing.

2 (4) The judge of the district court shall hear and
3 determine the case and make all necessary orders for the
4 trial of the case and carrying his judgment into effect. The
5 order of the judge shall express the will of a majority of
6 the legal voters of the political party, as indicated by
7 their votes, disregarding technicalities or errors in
8 spelling.

9 (5) Each party is entitled to subpoenas.

10 (6) The registrar shall issue a certificate to the
11 person declared nominated by the court. The certificate
12 shall be conclusive evidence of the right of the person to
13 hold the nomination."

14 Section 24. Section 23-3319, R.C.M. 1947, is amended
15 to read as follows:

16 "23-3319. Certificates of nominations to be preserved
17 — certification of candidates' names and descriptions —
18 statement of votes received by candidate. (1) The secretary
19 of state, registrars, and city clerks shall preserve all
20 certificates of nominations for ~~one~~ ~~(1)~~ year. All
21 certificates shall be open to public inspection under rules
22 adopted by the various offices.

23 (2) Forty-five ~~(45)~~ days or more before an election,
24 the secretary of state shall certify to the registrars the
25 name and description of each person nominated, as specified

1 in the certificates of nomination filed with him.

2 ~~(3) Each election board shall transmit to the~~
3 ~~secretary of state a statement of the number of votes cast~~
4 ~~for a person as the candidate for the independent body by~~
5 ~~which he was nominated."~~

6 Section 25. Section 23-3403, R.C.M. 1947, is amended
7 to read as follows:

8 "23-3403. ~~Committees' powers state central committee~~
9 ~~to appoint county central committee where none exists Powers~~
10 ~~of county and city central committees — role of state~~
11 ~~central committee where no county central committee exists.~~

12 (1) The county and city central committee may:

13 (a) ~~Make make~~ rules for the government of its
14 political party in each county, not inconsistent with any of
15 the provisions of ~~this act nor~~ the election laws of this
16 state or the rules of its state political party;

17 (b) ~~Elect elect~~ two ~~(2)~~ county members of the state
18 central committee, one ~~(1)~~ of whom shall be a man and one
19 ~~(1)~~ of whom shall be a woman~~s~~, elect the members of the
20 congressional committee~~s~~, and fill all vacancies and make
21 rules in their jurisdiction.

22 (2) If there is no county central committee, the state
23 central committee shall appoint a county central committee."

24 Section 26. Section 23-3405, R.C.M. 1947, is amended
25 to read as follows:

1 "23-3405. Organization of committee — meeting —
 2 county convention to elect delegates and alternates to state
 3 convention. (1) The committee shall meet prior to the state
 4 convention of its political party and organize by electing a
 5 chairman and one ~~(1)~~ or more vice-chairmen. The chairman or
 6 first vice-chairman shall be a woman. ~~They~~ The committee
 7 shall elect a secretary and other officers as are proper. It
 8 is not necessary for the officers to be precinct
 9 committeemen.

10 (2) The committee may select managing or executive
 11 committees and authorize subcommittees to exercise ~~any and~~
 12 all powers conferred upon the county, city, state, and
 13 congressional central committees by ~~this act~~ the election
 14 laws of this state.

15 (3) The chairman of the county central committee shall
 16 call the central committee meeting and not less than ~~four~~
 17 ~~(4)~~ days before the date of the central committee meeting
 18 shall publish the call in a newspaper published at the
 19 county seat and mail a copy of the call to each precinct
 20 committeeman. If party rules permit the use of a proxy, no
 21 proxy ~~shall~~ may be recognized unless held by an elector of
 22 the precinct of the committeeman executing it.

23 (4) The county chairman of the party shall preside at
 24 the county convention. No person other than a duly elected
 25 or appointed committeeman or officer of the committee is

1 entitled to participate in the proceedings of the committee.

2 (5) If a committeeman is absent, the convention may
 3 fill the vacancy by appointing some qualified elector of the
 4 party, resident in the precinct, to represent the precinct
 5 in the convention.

6 (6) The county convention shall elect delegates and
 7 alternate delegates to the state convention under rules of
 8 the state party. The chairman and secretary of the county
 9 convention shall issue and sign certificates of election of
 10 the delegates."

11 Section 27. Section 23-3506, R.C.M. 1947, is amended
 12 to read as follows:

13 "23-3506. Registrar to provide printed ballots —
 14 marking by electors — other ballots ineffective. Except as
 15 otherwise provided in ~~this act~~ the election laws of this
 16 state:

17 (1) ~~The~~ the registrar shall provide printed ballots
 18 for every election for public officers. He shall print on
 19 the ballot the names of all candidates, including candidates
 20 for chief justice and ~~associate~~ justices of the supreme
 21 court, and judges of the district courts;

22 ~~(2) An elector may write or paste on his ballot the~~
 23 ~~name of any person for whom he desires to vote for any~~
 24 ~~office, but must mark it as provided in section 23-3606.~~
 25 ~~When the ballot is marked in this manner it must be counted~~

1 ~~the case as though the name is printed upon the ballot and~~
2 ~~marked by the voter;~~

3 ~~(2)~~ (2) Ballots ballots other than those printed by the
4 registrars may not be cast or counted in any election."

5 Section 28. Section 23-3512, R.C.M. 1947, is amended
6 to read as follows:

7 "23-3512. Columns and material to be printed on
8 ballot. (1) Each ballot shall contain three ~~(3)~~ categories
9 with at least one ~~(4)~~ column for each category.

10 (2) At the head of the first column to the left shall
11 be the words, "STATE AND NATIONAL," in boldface type,
12 followed by a list of all candidates for state and national
13 offices, including supreme court justices, district court
14 judges, and members of the ~~legislative assembly~~ legislature,
15 and the list shall progressively continue to the top of the
16 second column.

17 (3) Next shall be the ~~words "COUNTY AND TOWNSHIP,"~~
18 word "COUNTY" in large boldface type and beneath the heading
19 all candidates for county ~~and township~~ offices. The list
20 shall progressively continue on to the top of the third
21 column.

22 (4) Next shall be the words "INITIATIVES, REFERENDUMS,
23 AND CONSTITUTIONAL AMENDMENTS," in boldface type, and listed
24 thereunder shall be all proposed constitutional amendments
25 and measures to be voted which do not involve the creation

1 of any state levy, debt, or liability. If there are no such
2 measures, this heading shall be eliminated.

3 (5) Following each except the last column, the words
4 "VOTE IN THE NEXT COLUMN" shall appear.

5 (6) All measures involving the creation of a state
6 levy, debt, or liability shall be submitted to the voters
7 upon a separate official ballot.

8 (7) Each ballot shall be printed so that all the
9 matters printed are equally apportioned among the three ~~(3)~~
10 ~~categories~~ columns as nearly as possible."

11 Section 29. Section 23-3513, R.C.M. 1947, is amended
12 to read as follows:

13 "23-3513. Order of placement. (1) The order of offices
14 on the ballot in the first column designated "STATE AND
15 NATIONAL," shall be as follows:

16 (a) If the election is in a year in which a president
17 of the United States is to be elected, in spaces separated
18 from the balance of the party tickets by a heavy black line,
19 shall be the names and spaces for voting for candidates for
20 president and vice-president. The names of candidates for
21 president and vice-president for each political party shall
22 be grouped together.

23 (b) United States senator;

24 (c) United States representative;

25 (d) Governor and lieutenant governor;

1 (e) Secretary of state;
 2 (f) Attorney general;
 3 ~~(g) State treasurer;~~
 4 ~~(h) (g)~~ State auditor;
 5 ~~(i) (h)~~ Public service commissioners;
 6 ~~(j) (i)~~ State superintendent of public instruction;
 7 ~~(k) (j)~~ Clerk of the supreme court;
 8 ~~(l) (k)~~ Chief justice of the supreme court;
 9 ~~(m) (l)~~ ~~Associate justices~~ Justices of the supreme
 10 court;
 11 ~~(n) (m)~~ District court judges;
 12 ~~(o) (n)~~ State senators;
 13 (o) ~~members~~ members of the house of representatives.
 14 (2) If any offices are not to be elected, they shall
 15 not be designated but the order of offices to be filled
 16 shall maintain their relative positions.
 17 ~~(3) (3)~~ In the column designated, "COUNTY AND
 18 ~~TOWNSHIP,~~" the following order of placement shall be
 19 observed:
 20 (a) ~~Clerk~~ clerk of the district court;
 21 (b) ~~County~~ county commissioner;
 22 (c) ~~County~~ county clerk and recorder;
 23 (d) ~~Sheriff~~ sheriff;
 24 (e) ~~County~~ county attorney;
 25 (f) ~~County~~ county auditor;

1 (g) ~~Other~~ other offices in the order designated by the
 2 registrar.
 3 ~~(3) (4)~~ In the third column constitutional amendments
 4 shall be followed by referendum and initiative measures."
 5 Section 30. Section 23-3515, R.C.M. 1947, is amended
 6 to read as follows:
 7 "23-3515. Stub, size and contents. (1) The ballot
 8 shall be printed on the same leaf with a stub, ~~and~~ separated
 9 by ~~a perforated stub perforation.~~
 10 (2) The stub shall extend the entire width of the
 11 ballot, and have instructions printed on it.
 12 (3) Upon the face of the stub shall be printed, in
 13 type called brevier capitals, the following:
 14 (a) "This ballot should be marked with an 'X' in the
 15 square before the ~~names~~ name of each person or candidate for
 16 whom the elector intends to vote. The elector may write in
 17 blank spaces, or paste over another name, the name of a
 18 person for whom he wishes to vote, and vote by marking an
 19 'X' in the square before the name."
 20 (b) "If a ballot contains a constitutional amendment,
 21 or other question to be submitted to a vote of the people,
 22 it is voted on by marking an 'X' in the square before the
 23 amendment or question."
 24 (4) On the front of the stub shall be printed or
 25 stamped, by the registrar or other officer, the consecutive

1 number of the ballot, beginning with number ~~one~~ (1) and
 2 increasing in regular numerical order to the total number of
 3 ballots required for the precinct."

4 Section 31. Section 23-3606, R.C.M. 1947, is amended
 5 to read as follows:

6 "23-3606. Method of voting. (1) On receipt of his
 7 ballot, the elector must immediately retire to one of the
 8 booths and prepare his ballot.

9 (2) He shall prepare his ballot by marking an "x" in
 10 the square before the name of the person or persons for whom
 11 he intends to vote.

12 (3) If the ballot contains a constitutional amendment,
 13 or other question to be submitted to the vote of the people,
 14 he shall mark an "x" in the applicable square indicating his
 15 vote either for or against the amendment or question.

16 (4) The elector may write in the blank spaces, or
 17 paste over any other name, the name of any person for whom
 18 he wishes to vote, and may vote for that person by marking
 19 an "x" before the name. When the ballot is marked in this
 20 manner, it must be counted the same as though the name is
 21 printed upon the ballot and marked by the voter.

22 (5) After preparing his ballot the elector must fold
 23 it so the face of the ballot will be concealed and the
 24 endorsements may be seen, and hand it to the election judges
 25 who shall announce the name of the elector and the printed

1 or stamped number on the stub in a loud tone of voice. The
 2 judge must announce the voter's name and record the name in
 3 the pollbook. If the voting is in a city, the voter's
 4 residence shall also be announced and recorded in the
 5 pollbook.

6 (6) If the elector is entitled to vote, and if the
 7 printed or stamped number is the same as that entered on the
 8 pollbooks as the number on the stub, the judge shall receive
 9 the ballot, and remove the stub in sight of the elector,
 10 depositing each ballot in the ballot box and each stub in a
 11 box for detached ballot stubs.

12 (7) Any elector who spoils his ballot may, on
 13 returning the spoiled ballot, receive another in place of
 14 it."

15 Section 32. Section 23-3610, R.C.M. 1947, is amended
 16 to read as follows:

17 "23-3610. Marking precinct register book before
 18 elector votes — procedure. (1) The election judges at every
 19 primary, general, or special election shall, in the precinct
 20 register book, mark a cross (X) upon the line opposite to
 21 the name of the elector.

22 (2) Before an elector is permitted to vote, the
 23 election judges shall require the elector to sign his name
 24 on the place designated in the precinct register.

25 (3) The election judges shall require an elector not

1 able to sign his name to produce two ~~(2)~~ electors who shall
 2 make an affidavit before one or more of the election judges,
 3 ~~or one (1) of them~~, in a form prescribed by the secretary of
 4 state.

5 (4) The affidavit shall be filed by the election
 6 judges, and returned to the registrar with the returns of
 7 the election. One ~~(1)~~ of the judges shall write the
 8 elector's name, note noting the fact of his inability to
 9 sign, and the names of the two ~~(2)~~ electors.

10 (5) If the elector fails or refuses to sign his name,
 11 and if unable to write fails to procure two ~~(2)~~ electors who
 12 will take the oath required, he shall may not be allowed to
 13 vote.

14 ~~(6) Immediately after the canvass of the returns, the~~
 15 ~~election judges shall deliver to the registrar the official~~
 16 ~~register, sealed, with the election returns and pollbook~~
 17 ~~which have been used for the election.~~

18 ~~(7) (6)~~ Each precinct shall keep a list of persons
 19 voting, and the name of each person who votes shall be
 20 entered in it and numbered in the order voting. This list is
 21 known as the pollbook."

22 Section 33. Section 23-3611, R.C.M. 1947, is amended
 23 to read as follows:

24 "23-3611. Grounds of challenge. A person offering to
 25 vote may be orally challenged by any elector of the county,

1 upon the following grounds:

2 (1) ~~That that~~ he is not the person whose name appears
 3 on the register or checklist;

4 (2) ~~That he has been adjudicated insane or is confined~~
 5 ~~to a state institution that he is of unsound mind, as~~
 6 determined by a court;

7 (3) ~~That that~~ he has voted before in that day
 8 election;

9 (4) ~~That that~~ he has been convicted of a felony and
 10 has not been pardoned is serving a sentence in a penal
 11 institution."

12 Section 34. Section 23-3612, R.C.M. 1947, is amended
 13 to read as follows:

14 "23-3612. Proceedings on pursuant to challenges ~~for~~
 15 ~~want of identity, having voted before, and conviction of~~
 16 ~~felony -- oath.~~ (1) If the challenge is on the ground that
 17 the person is not the person whose name appears on the
 18 official register, the election judges shall administer the
 19 following oath: "You do swear (or affirm) that you are the
 20 person whose name is entered on the official register and
 21 precinct list."

22 (2) If the challenge is on the ground that the person
 23 has voted before in that day election, the judges shall
 24 administer this oath: "You do swear (or affirm) that you
 25 have not ~~before~~ voted before in this day election."

1 (3) If the challenge is on the ground that the person
 2 has been convicted of a felony and is serving a sentence in
 3 a penal institution, the judges shall administer the
 4 following oath: "You do swear (or affirm) either that you
 5 have not been convicted of a felony or that, if you have
 6 been convicted of a felony, you are not serving a sentence
 7 in a penal institution."

8 Section 35. Section 23-3613, R.C.M. 1947, is amended
 9 to read as follows:

10 "~~23-3613. Challenges, how determined~~ Determination of
 11 challenges. (1) Challenges on the grounds that the person is
 12 not the person whose name appears on the official register
 13 or that the person has before voted that day are determined
 14 in favor of the person challenged by his taking the oath
 15 tendered.

16 (2) A challenge that the person has been convicted of
 17 a felony and not pardoned must be determined in favor of the
 18 challenged on his taking the oath tendered, ~~unless the~~
 19 ~~conviction is proved by producing an authenticated copy of~~
 20 ~~the record, or by oral testimony of two (2) witnesses.~~

21 ~~(a) If a person convicted of a felony states he was~~
 22 ~~pardoned, he must exhibit his pardon or certified copy to~~
 23 ~~the election judges.~~

24 ~~(b) If the pardon is found sufficient, the election~~
 25 ~~judges shall administer this oath: "You do swear (or affirm)~~

1 ~~that you have not been convicted of any felony other than~~
 2 ~~that for which a pardon is now exhibited."~~

3 ~~(c) After taking the oath, the person must be allowed~~
 4 ~~to vote if otherwise qualified, unless a conviction of some~~
 5 ~~other felony is proved."~~

6 Section 36. Section 23-3708, R.C.M. 1947, is amended
 7 to read as follows:

8 "23-3708. Disposition of marked ballot upon receipt by
 9 registrar or clerk. (1) Upon receipt of the envelope, the
 10 registrar, city clerk, or clerk of a first class school
 11 district shall immediately enclose it in a larger envelope,
 12 together with the elector's application, and seal ~~it~~ the
 13 larger envelope.

14 (2) The registrar, city clerk, or clerk of a first
 15 class school district shall safely keep it in his office
 16 until delivered or mailed by him."

17 Section 37. Section 23-3711, R.C.M. 1947, is amended
 18 to read as follows:

19 "23-3711. Duty of election judges — pollbooks, and
 20 numbering ballots and rejected ballots. (1) The election
 21 judges, at the opening of the polls, shall note on the
 22 pollbooks opposite the numbers corresponding to the number
 23 of absentee ballots issued the fact that the ballots were
 24 issued and reserve the numbers for the absent or physically
 25 incapacitated voters. The notation may be made by writing

1 the words "absent or physically incapacitated voters"
2 opposite the numbers.

3 (2) The election judges shall insert only the ~~names~~
4 name of the elector entitled to each particular number
5 according to the certificate of the registrar or city clerk
6 and the number of his ballot.

7 ~~(3) Any absentee ballots which have been rejected~~
8 ~~shall be placed with the voter's application and the absent~~
9 ~~or physically incapacitated voter's envelope furnished by~~
10 ~~the registrar or city clerk.~~

11 ~~(a) This envelope shall be sealed and endorsed by the~~
12 ~~words, "rejected absentee ballots," numbered . . . , and shall~~
13 ~~put on it the number of the absentee ballots given according~~
14 ~~to the registrar's or city clerk's certificate.~~

15 ~~(b) There shall be a separate enclosing envelope for~~
16 ~~the absentee ballots rejected, and the envelopes shall be~~
17 ~~placed in an envelope together with other ballots, and shall~~
18 ~~not be opened without a court order."~~

19 Section 38. Section 23-3713, B.C.S. 1947, is amended
20 to read as follows:

21 "23-3713. Envelopes containing ballots — deposit in
22 box and rejection of ballot. (1) While the polls are open on
23 election day, the election judges shall first open the outer
24 envelope only, and compare the signature of the voter on the
25 application and on the affirmation.

1 (2) If the election judges find that the signatures
2 correspond, that the affirmation is sufficient, and that the
3 absentee elector is qualified and has not yet voted, they
4 shall open the absentee voter's envelope and take out the
5 ballot or ballots and, without unfolding ~~it~~ them or
6 permitting ~~it~~ them to be examined, ascertain whether the
7 ~~stab is~~ stabs are still attached and whether the ~~number~~
8 ~~corresponds~~ numbers correspond to the ~~number~~ numbers in the
9 certificate of the registrar or city clerk.

10 (3) If so, they shall endorse ~~it~~ the ballots the same
11 way that other ballots are endorsed, detach the ~~stab~~ stabs,
12 deposit the ballots in the proper ballot boxes, and make
13 entries in their election records to show the elector has
14 voted.

15 (4) If the affirmation is found defective, the numbers
16 do not correspond, or the voter is unqualified, the election
17 judges, without opening the absentee ballot, shall mark
18 across the face of it "rejected as defective" or "rejected
19 as not an elector-".

20 (5) The absentee ballot envelope, when it has been
21 voted ~~or rejected~~, shall be deposited in the ballot box
22 containing the general or party ballots, and shall be
23 retained and preserved in the manner provided for official
24 ballots.

25 (6) If, upon opening the absentee ballot envelope, it

1 is found that the stub of any ballot has been detached, or
 2 that the number does not correspond to the number on the
 3 certificate of the registrar or clerk, the ballot shall be
 4 rejected. It shall be marked on back as "rejected for
 5", filling the blank with the reason. This statement
 6 shall be dated and signed by a majority of the election
 7 judges.

8 (7) The rejected ballots, together with the absentee
 9 ballot envelope bearing the application, shall be enclosed
 10 in an envelope, sealed, and the judges shall write on the
 11 envelope, "rejected ballot of absentee voter" (writing in
 12 the elector's name). "The rejected ballot(s) is (are)
 13"

14 (8) The election judges shall designate the rejected
 15 ballot as "general ballot," if it is a ballot for
 16 candidates ~~that are rejected~~.

17 (9) If the rejected ballot is on a question submitted
 18 to the vote of the electors, the judges shall designate it
 19 as ballot question No. ~~in the certificate~~ on the
 20 envelope.

21 (10) A separate enclosing envelope shall be used for
 22 each absentee ballot rejected. This envelope shall be
 23 placed in the envelope in which the other ballots voted are
 24 required to be placed and shall not be opened without a
 25 court order.

1 (11) The registrar or clerk shall provide and deliver
 2 to the election judges suitable envelopes for enclosing
 3 rejected absentee ballots."

4 Section 39. Section 23-3715, R.C.M. 1947, is amended
 5 to read as follows:

6 "23-3715. Opening of envelopes after deposit. If an
 7 envelope containing an absentee ballot has been deposited
 8 unopened in the ballot box and the envelope has not been
 9 marked rejected, the envelope shall be opened without a
 10 court order and the ballot cast."

11 Section 40. Section 23-3801, R.C.M. 1947, is amended
 12 to read as follows:

13 "23-3801. Voting machines — secretary of state. (1)
 14 Before any voting machine can be used, the secretary of
 15 state shall:

16 (a) ~~Examine~~ examine the machine to determine if it
 17 complies with the requirements of ~~sections~~ 23-3801 through
 18 ~~23-3822~~ 23-3819 and 23-3822;

19 (b) ~~within thirty~~ within 30 days after examining a
 20 machine, file a report in his office on each machine
 21 examined;

22 (c) ~~within five~~ within 5 days after filing the
 23 report, transmit to the commissioners, city council, or
 24 other board having control of elections in each county or
 25 city a list of the machines approved.

1 (2) A machine shall not be used unless approved by the
2 secretary of state ~~sixty~~ (60) days or more prior to the
3 election.

4 (3) The secretary of state may employ and compensate
5 qualified mechanics who are electors to assist him in duties
6 required by this chapter ~~and compensate them~~.

7 (4) The person or company submitting a machine for
8 examination before the filing of the report shall pay the
9 compensation and expenses of mechanics connected with the
10 examination to the secretary of state for deposit in the
11 state general fund."

12 Section 41. Section 23-3807, R.C.M. 1947, is amended
13 to read as follows:

14 "23-3807. Registrar to instruct election judges. (1)
15 Before each election, the registrar shall instruct all
16 election judges in the use of the machine and their duties.
17 He shall give to each election judge ~~that~~ who has received
18 instruction, and is fully qualified to conduct the election
19 with the machine, a certificate to that effect.

20 (2) The registrar shall call meetings of the election
21 judges as necessary for instruction. Election judges shall
22 attend meetings as necessary to receive the proper
23 instructions.

24 (3) An election judge ~~shall~~ pay not serve if voting
25 machines are used unless he has received instruction, is

1 fully qualified to perform duties in connection with the
2 machine, and has received a certificate to that effect from
3 the ~~custodian~~ registrar. However, this ~~shall~~ section does
4 not prevent an emergency appointment of an election judge."

5 Section 42. Section 23-3822, R.C.M. 1947, is amended
6 to read as follows:

7 "23-3822. ~~Applicability of General~~ election laws ~~is~~
8 ~~general where not in conflict with this chapter~~ to apply.

9 All laws applicable to elections where voting is not done by
10 machine, and all penalties prescribed for violations of
11 those laws, apply to elections and precincts where voting
12 machines are used if they are not in conflict with the
13 provisions of ~~sections 23-3801 through 23-3824~~ 23-3819."

14 Section 43. Section 23-3905, R.C.M. 1947, is amended
15 to read as follows:

16 "23-3905. Procedure upon closing polls. (1) In
17 precincts where an electronic voting system is used, as soon
18 as the polls are closed, the election judges shall secure
19 the marking devices against further voting. They shall
20 thereafter open the ballot box and count the number of
21 ballots or envelopes containing ballots that have been cast
22 to determine that the number of ballots does not exceed the
23 number of voters shown on the poll or registry lists. If
24 there is an excess, this fact shall be reported in writing
25 to the appropriate election officer in charge with the

1 reasons therefor, if known. The total number of voters shall
 2 be entered on the tally sheets. The election judges shall
 3 thereupon count the write-in votes and prepare a return of
 4 such votes on forms provided for this purpose. If ballot
 5 cards are used, all ballots on which write-in votes have
 6 been recorded shall be serially numbered, starting with the
 7 number one, and the same number shall be placed on the
 8 ballot card of the voter. The ~~inspectors or other~~
 9 ~~appropriate precinct election officials~~ judges shall compare
 10 the write-in votes with the votes cast on the ballot card,
 11 and if the total number of votes for any office exceeds the
 12 number allowed by law, a notation to that effect shall be
 13 entered on the back of the ballot card and ~~it~~ it shall be
 14 returned to the counting location in an envelope marked
 15 "defective ballots", and ~~such~~ such invalid votes shall ~~may~~
 16 not be counted. So far as applicable, provisions relating to
 17 defective paper ballots shall apply.

18 (2) The election judges shall place all ballots that
 19 have been cast in the container provided for that purpose,
 20 which shall be sealed and delivered ~~forthwith~~ immediately by
 21 the election judges to the counting location or other
 22 designated place, together with the unused, void, and
 23 defective ballots and returns.

24 (3) All proceedings at the counting location shall be
 25 under the direction of the registrar or city clerk under the

1 observation of at least three election judges designated by
 2 the commissioners or city council and shall be open to the
 3 public, but no persons except those employed and authorized
 4 for the purpose shall ~~shall~~ may touch any ballot, ballot
 5 container, or return. If any ballot is damaged or defective
 6 so that it cannot properly be counted by the automatic
 7 tabulating equipment, a true duplicate copy shall be made of
 8 the damaged ballot in the presence of witnesses and
 9 substituted for the damaged ballot. Likewise, a duplicate
 10 ballot shall be made of a defective ballot which shall ~~shall~~ may
 11 not include the invalid votes. All duplicate ballots shall
 12 be clearly labeled "duplicate," shall bear a serial number
 13 which shall be recorded on the damaged or defective ballot,
 14 and shall be counted in lieu of the damaged or defective
 15 ballot.

16 (4) The return printed by the automatic tabulating
 17 equipment, to which has been added the return of write-in
 18 and absentee votes, shall constitute the official return of
 19 each precinct or election district. Upon completion of the
 20 count the returns shall be open to the public."

21 Section 44. Section 23-4011, R.C.M. 1947, is amended
 22 to read as follows:

23 "23-4011. Canvass County Canvass to be public --
 24 nonessentials to be disregarded ~~in counting returns~~. (1) The
 25 canvass shall be public. It shall proceed by opening the

1 returns, and determining the vote for each person and each
2 proposition from each precinct, and ~~a declaration of~~
3 declaring the results.

4 (2) The returns shall not be rejected if they do not
5 show who administered the oath to the election judges or
6 clerks, because of failure to complete all the certificates
7 in the pollbooks, or because of failure of any other act
8 making up the returns that is not essential to determine for
9 whom the votes were cast."

10 Section 45. Section 23-4013, R.C.M. 1947, is amended
11 to read as follows:

12 "23-4013. Declaration of persons elected ~~certifying~~
13 ~~is.~~ (1) The board shall declare elected the persons having
14 the highest number of votes given for each ~~office to be~~
15 ~~filled in a single county or subdivision of a county county~~
16 and district office voted for in only one county, other than
17 judge of the district court and each precinct office.

18 (2) If a recount shows that two ~~(2)~~ or more persons
19 received an equal and sufficient number of votes for the
20 office of state senator or state representative, the county
21 recount board shall certify this to the governor."

22 Section 46. Section 23-4014, R.C.M. 1947, is amended
23 to read as follows:

24 "23-4014. Certificates issued by the clerk. (1) The
25 clerk shall immediately deliver to each person declared

1 elected by the board a certificate of election signed by him
2 and authenticated with the seal of the board.

3 (2) The certificate shall state that the official bond
4 must be filed within ~~thirty~~ (30) days after notice of
5 election or appointment and that failure to file the bond
6 vacates the office.

7 ~~(3) This certificate shall not be issued to persons~~
8 ~~elected district judge."~~

9 Section 47. Section 23-4015, R.C.M. 1947, is amended
10 to read as follows:

11 "23-4015. State returns, how made and transmitted. (1)
12 After a general or special election, the clerk shall make an
13 abstract of the vote for ~~members of the legislative~~
14 ~~assembly, for officers elected in the state at large, and~~
15 ~~for judicial officers other than justices of the peace~~
16 congressional offices, state or district offices voted for
17 in more than one county, members of the legislature, and
18 judges of the district court.

19 (2) The clerk shall seal the abstract, endorse it
20 "Election Returns," and immediately send it to the
21 secretary of state by certified or registered mail."

22 Section 48. Section 23-4103, R.C.M. 1947, is amended
23 to read as follows:

24 "23-4103. Conditions under which recount to be made. A
25 recount shall be made under any of the following

1 conditions;

2 (1) If a candidate ~~other than for the office of~~
 3 ~~district judge for a county or district office voted for in~~
 4 ~~only one county, other than judge of the district court, or~~
 5 ~~a precinct office~~ is defeated by a margin not exceeding
 6 ~~one-fourth of one per cent (1/4 of 1%)~~ of the total votes
 7 cast or by a margin not exceeding ~~ten (10)~~ votes, whichever
 8 is greater, he may within ~~five (5)~~ days after the official
 9 canvass file with the registrar a verified petition stating
 10 he believes a recount will change the result and a recount
 11 of the votes for the office or nomination should be had.

12 (2) If a candidate ~~is defeated for the office of~~
 13 ~~district judge or an office voted on in more than one (1)~~
 14 ~~county for a congressional office, a state or district~~
 15 ~~office voted on in more than one county, the legislature, or~~
 16 ~~judge of the district court is defeated~~ by a margin not
 17 exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the
 18 total votes cast for all candidates for the same position,
 19 he may within ~~five (5)~~ days after the official canvass file
 20 a petition with the secretary of state as set forth in
 21 subsection (1) ~~of this section~~. The secretary of state shall
 22 immediately notify each registrar whose county includes any
 23 precincts which voted for the same office by certified or
 24 registered mail, and a recount shall be conducted in those
 25 precincts.

1 (3) If a question submitted to the vote of the people
 2 of the state is decided by a margin not exceeding ~~one-fourth~~
 3 ~~of one per cent (1/4 of 1%)~~ of the total votes cast for and
 4 against the question, a petition as set forth in subsection
 5 (1) ~~of this section~~ may be filed with the secretary of
 6 state. This petition shall

7 ~~(a) Be~~ be signed by not less than ~~one hundred (100)~~
 8 electors of the state representing at least five ~~(5)~~
 9 counties of the state and be filed within ~~five (5)~~ days
 10 after the official canvass.

11 ~~(b) (1)~~ The secretary of state shall immediately notify
 12 each registrar by certified or registered mail of the filing
 13 of the petition, and a recount shall be conducted in all
 14 precincts in each county.

15 ~~(4) (5)~~ If there is a tie vote, the board making the
 16 canvass shall certify the vote ~~to the registrar if the~~
 17 ~~election took place only in one (1) county and to the~~
 18 ~~secretary of state for other elections. The registrar or~~
 19 ~~secretary of state shall proceed as if a petition for~~
 20 ~~recount had been filed under this act. If a tie exists after~~
 21 ~~the recount, the tie shall be resolved as provided by law;~~

22 (a) to the registrar, if the election was for a county
 23 or district office voted on in only one county, other than
 24 judge of the district court, or a precinct office or a
 25 ballot issue voted on in only one county;

1 (b) to the secretary of state, if the election was for
 2 a congressional office, a state or district office voted on
 3 in more than one county, the legislature, or judge of the
 4 district court or a ballot issue voted on in more than one
 5 county.

6 (6) When a tie has been certified to the registrar or
 7 secretary of state, as provided in subsection (5), he shall
 8 proceed as if a petition for a recount has been filed. If a
 9 tie exists after the recount, the tie shall be resolved as
 10 provided by law."

11 Section 49. Section 23-4117, R.C.M. 1947, is amended
 12 to read as follows:

13 ~~"23-4117. Certification of recount results—~~
 14 ~~transmittal to secretary of state corrected abstract of~~
 15 ~~votes—new certificate of election or nomination Procedure~~
 16 after recount. (1) Immediately after the recount the county
 17 recount board shall certify the result.

18 (2) At least two ~~(2)~~ members of the board shall sign
 19 the certificate, and it shall be attested to under seal by
 20 the registrar.

21 (3) The certificate shall set forth in substance the
 22 proceedings of the board and appearance of any candidates or
 23 representatives, and it shall adequately designate each
 24 precinct recounted, the vote of each precinct according to
 25 the official canvass previously made, the nomination,

1 position, or question involved, and the correct vote of each
 2 precinct as determined by the recount.

3 (4) When the certificate relates to a recount for ~~an~~
 4 ~~office, nomination, position, or question voted upon in more~~
 5 ~~than one (1) county or for judge of the district court a~~
 6 congressional office, a state or district office voted on in
 7 more than one county, a legislative office, or an office of
 8 judge of the district court or a ballot issue voted on in
 9 more than one county, the certificate shall be made in
 10 duplicate. One ~~(1)~~ copy shall be transmitted immediately to
 11 the secretary of state by certified or registered mail.

12 (5) ~~(a)~~ If the recount relates to ~~an office,~~
 13 ~~nomination, position, or question voted upon in only one (1)~~
 14 ~~county, or part of a single county a county or district~~
 15 office voted for in only one county, other than judge of the
 16 district court, or a precinct office or a ballot issue voted
 17 on in only one county, the county recount board shall
 18 immediately recanvass the returns as corrected by the
 19 certificate showing the result of the recount and make a
 20 corrected abstract of the votes.

21 ~~(b)~~ If the corrected abstract shows no change in
 22 the result, no further action shall need be taken.

23 ~~(c)~~ If there is a change in the result, a new
 24 certificate of election or nomination shall be issued to
 25 each candidate found to be elected or nominated."

1 Section 50. Section 23-4121, R.C.M. 1947, is amended
2 to read as follows:

3 "23-4121. Procedure upon tie vote for state executive
4 officers -- county officers other than county commissioner
5 -- ~~township officers~~ -- commissioners. (1) If there is a tie
6 vote for governor, and lieutenant governor, secretary of
7 state, attorney general, state auditor, ~~state treasurer,~~
8 clerk of the supreme court, superintendent of public
9 instruction, or any other state executive officer, the
10 ~~legislative assembly legislature~~, at its next regular
11 session, shall elect a person to fill the office by joint
12 ballot of the two ~~(2)~~ houses.

13 (2) If there is a tie vote for clerk of the district
14 court, county attorney, or any county officer, except county
15 commissioner, ~~or for a township officer,~~ the commissioners
16 shall appoint an eligible person as in case of other
17 vacancies in the office.

18 (3) If there is a tie vote for commissioner, the
19 senior district judge shall appoint an eligible person to
20 fill the office as in other cases of vacancy.

21 (4) If there is a tie vote for state officers, the
22 secretary of state shall transmit a certified copy of the
23 statement to the ~~legislative assembly legislature~~ showing
24 the votes cast for the two ~~(2)~~ or more persons having an
25 equal and the highest number of votes."

1 Section 51. Section 23-4401, R.C.M. 1947, is amended
2 to read as follows:

3 "23-4401. Election of United States senators and
4 representatives -- ~~for full term and to fill vacancies.~~ (1)
5 United States senators and representatives shall be elected
6 at the general election preceding commencement of the term
7 to be filled.

8 ~~(2) If a vacancy occurs for senator, or United States~~
9 ~~representative, an election to fill the vacancy shall be~~
10 ~~held at the next general election. If an election is invalid~~
11 ~~or not held at that time, the election shall be at the~~
12 ~~second succeeding general election.~~

13 ~~(3) (2)~~ Nominations and elections shall be as provided
14 by law for governor."

15 Section 52. Section 23-4402, R.C.M. 1947, is amended
16 to read as follows:

17 "23-4402. ~~Write of election to fill vacancy~~ Vacancy in
18 office of United States senator. (1) If a vacancy occurs in
19 the office of United States senator ~~or representative,~~ the
20 ~~governor shall issue a writ of election to fill the vacancy,~~
21 an election to fill the vacancy shall be held at the next
22 general election. If the election is invalid or not held at
23 that time, the election to fill the vacancy shall be held at
24 the next succeeding general election.

25 (2) The governor may make a temporary appointment to

1 fill the vacancy until the election."

2 Section 53. There is a new R.C.M. section that reads
3 as follows:

4 Vacancy in the office of United States representative.

5 (1) Whenever a vacancy occurs in the office of United States
6 representative, the governor shall immediately issue a writ
7 of election to fill the vacancy.

8 (2) The election to fill the vacancy shall be held
9 within 3 months from the time the vacancy occurs.

10 Section 54. Section 23-4737, R.C.M. 1947, is amended
11 to read as follows:

12 "23-4737. Payments in name of undisclosed principal.
13 No person shall ~~may~~ make a payment of his own money or of
14 another ~~persons~~ person's money to any other person in
15 connection with a nomination or election in any other name
16 than that of the person who in truth supplies such money;
17 ~~nor shall any.~~ No person may knowingly receive such payment,
18 or enter, or cause the same to be entered, in his accounts
19 or records in another name than that of the person by whom
20 it was actually furnished; provided, if the money ~~be is~~
21 received from the treasurer of any political ~~organization~~
22 committee, it ~~shall be~~ is sufficient to enter the same as
23 received from ~~said the~~ treasurer."

24 Section 55. Section 23-4757, R.C.M. 1947, is amended
25 to read as follows:

1 "23-4757. Forfeiture of nomination or office for
2 violation of law, when not worked. ~~Where~~ If, upon the trial
3 of any action or proceeding under the provisions of ~~this act~~
4 ~~for the Title 23 or Title 37 to~~ contest ~~of~~ the right of any
5 person to be declared nominated or elected to any office, or
6 to annul or set aside such nomination or election, or to
7 remove a person from his office, it appears from the
8 evidence that the offense complained of was not committed by
9 the candidate, or with his knowledge or consent, or was
10 committed without his sanction or connivance, and that all
11 reasonable means for preventing the commission of such
12 offense at such election were taken by and on behalf of the
13 candidate; ~~or~~ that the offense or offenses complained of
14 were trivial, unimportant, and limited in character, and
15 that in all other respects his participation in the election
16 was free from such offenses or illegal acts; ~~or~~ that any
17 act or omission of the candidate arose from inadvertence or
18 from accidental miscalculation, or from some other
19 reasonable cause of a like nature, and in any case did not
20 arise from any want of good faith; ~~and~~ under the
21 circumstances it seems to the court to be unjust that the
22 ~~said~~ candidate ~~shall~~ forfeit his nomination or office, or be
23 deprived of any office of which he is the incumbent, then
24 the nomination or election of ~~each the~~ candidate ~~shall is~~
25 not by reason of such offense or omission complained of ~~be~~

1 void, nor shall any the candidate be removed from or
2 deprived of his office."

3 Section 56. Section 23-4758, R.C.M. 1947, is amended
4 to read as follows:

5 "23-4758. Punishment ~~for violation of act~~. If, upon
6 the trial of any action or proceeding under the provisions
7 of ~~this act, for the contesting of Title 23 or Title 37 to~~
8 contest the right of any person to be declared to be
9 nominated to an office, or elected to an office, or to annul
10 and set aside such election, or to remove any person from
11 his office, it ~~shall appear~~ appears that such person was
12 guilty of any corrupt practice, illegal act, or undue
13 influence, in or about such nomination or election, he shall
14 be punished by being deprived of the nomination or office,
15 as the case may be, and the vacancy therein shall be filled
16 in the manner provided by law. The only ~~exception~~ exceptions
17 to this judgment shall be ~~that those~~ provided in the
18 ~~preceding section of this act 23-4757~~. Such judgment shall
19 does not prevent the candidate or officer from being
20 proceeded against by indictment or criminal information for
21 any such act or acts."

22 Section 57. Section 23-4759, R.C.M. 1947, is amended
23 to read as follows:

24 "23-4759. Time for commencing contest. Any action to
25 contest the right of any person to be declared elected to an

1 office, or to annul and set aside such election, or to
2 remove from or deprive any person of an office of which he
3 is the incumbent, for any offense mentioned in ~~this act~~
4 Title 23 or Title 37, must, unless a different time be
5 stated, be commenced within ~~forty days~~ 1 year after the
6 return day of the election at which such offense was
7 committed, ~~unless the ground of the action or proceeding is~~
8 ~~for the illegal payment of money or other valuable thing~~
9 ~~subsequent to the filing of the statements prescribed by~~
10 ~~this act, in which case the action or proceeding may be~~
11 ~~commenced within forty days after the discovery by the~~
12 ~~complainant of such illegal payment. A contest of the~~
13 ~~nomination or office of governor or representative or~~
14 ~~senator in congress must be commenced within twenty days~~
15 ~~after the declaration of the result of the election, but~~
16 ~~this shall not be construed to apply to any contest before~~
17 ~~the legislative assembly."~~

18 Section 58. Section 23-4760, R.C.M. 1947, is amended
19 to read as follows:

20 "23-4760. Court having jurisdiction of proceedings. An
21 application for filing a statement, payment of a claim, or
22 correction of an error or false recital in a filed statement
23 filed, or an action or proceeding to annul and set aside the
24 election of any person declared elected to an office, or to
25 remove or deprive any person of his office for an offense

1 mentioned in ~~this act~~, Title 23 or Title 37 or any petition
 2 to excuse any person or candidate in accordance with the
 3 power of the court to excuse, as provided in ~~section~~
 4 23-4757, must be made or filed in the district court of the
 5 county in which the certificate of his nomination as a
 6 candidate for the office to which he is declared nominated
 7 or elected is filed, or in which the incumbent resides."

8 Section 59. Section 23-4763, R.C.M. 1947, is amended
 9 to read as follows:

10 "23-4763. Grounds for contest of nomination or office.
 11 ~~Any~~ an elector of the state, or of any political or
 12 municipal division thereof, may contest the right of any
 13 person to any nomination or office for which ~~such~~ the
 14 elector has the right to vote, for any of the following
 15 causes:

16 1. (1) ~~On~~ on the ground of a deliberate, serious, and
 17 material violation of any ~~of the provisions of this act, or~~
 18 ~~of any other~~ provision of the law relating to nominations or
 19 elections;

20 2. (2) ~~When~~ whenever the person whose right ~~was~~ is
 21 contested was not, at the time of the election, eligible to
 22 such office;

23 3. (3) ~~On~~ on account of illegal votes or an erroneous
 24 or fraudulent count or canvass of votes."

25 Section 60. Section 23-4767, R.C.M. 1947, is amended

1 to read as follows:

2 "23-4767. Hearing of contest. The petitioner
 3 (contestant) and the contestee may appear and produce
 4 evidence at the hearing, but no person, other than the
 5 petitioner and contestee, ~~shall~~ may be made a party to the
 6 proceedings on such petition; and no person, other than ~~said~~
 7 the parties and their attorneys, ~~shall~~ may be heard thereon,
 8 except by order of the court. If more than one petition is
 9 pending, or the election of more than one person is
 10 contested, the court may, in its discretion, order the cases
 11 to be heard together, and may apportion the costs,
 12 disbursements, and attorney's fees between them, and shall
 13 finally determine all questions of law and fact, save only
 14 that the judge may, in his discretion, impanel a jury to
 15 decide on questions of fact. ~~In the case of a contested~~
 16 ~~nomination or election for Senator or Representative in the~~
 17 ~~Legislative Assembly, or for Senator or Representative in~~
 18 ~~Congress, the court shall forthwith certify its findings to~~
 19 ~~the Secretary of State to be by him transmitted to the~~
 20 ~~presiding officer of the body in question.~~ In the case of
 21 other nominations or elections, other than for federal
 22 congressional offices, the court shall ~~forthwith~~ immediately
 23 certify its decision to the board or official issuing
 24 certificates of nomination or election, ~~which~~ and the board
 25 or official shall thereupon issue certificates of nomination

1 or election to the person or persons entitled thereto by
 2 ~~such the court's~~ decision. If judgment of ouster against a
 3 defendant shall be is rendered, ~~said judgment shall award~~
 4 ~~the nomination or office to the person receiving next the~~
 5 ~~highest number of votes, unless it shall be further~~
 6 ~~determined in the action, upon appropriate pleading and~~
 7 ~~proof by the defendant, that some act has been done or~~
 8 ~~committed which would have been ground in a similar action~~
 9 ~~against such person, had he received the highest number of~~
 10 ~~votes for such nomination or office, for a judgment of~~
 11 ~~ouster against him; and if it shall be so determined at the~~
 12 trial, the nomination or office shall be by the judgment
 13 declared vacant, except as provided in 23-4762, and shall
 14 thereupon be filled by a new election, or by appointment, as
 15 may be provided by law regarding vacancies in such
 16 nomination or office."

17 Section 61. Section 23-4770, R.C.M. 1947, is amended
 18 to read as follows:

19 "23-4770. Advancement of cases — dismissal, ~~when~~ —
 20 privileges of witnesses. Proceedings under ~~this act~~ Title 23
 21 or Title 37 shall be advanced on the docket upon request of
 22 either party for speedy trial, but the court may postpone or
 23 continue ~~such the~~ trial if ~~the ends of justice may be~~
 24 ~~thereby more effectually secured~~ necessary, and in case of
 25 such continuance or postponement, the court may impose costs

1 in its discretion as a condition thereof. No petition shall
 2 may be dismissed without the consent of the county attorney,
 3 unless the same shall ~~be~~ is dismissed by the court. No
 4 person shall may be excused from testifying or producing
 5 papers or documents on the ground that his testimony or the
 6 production of papers or documents will tend to criminate
 7 him; but no admission, evidence, or paper made or advanced
 8 or produced by such person shall or any evidence that is the
 9 direct result of such evidence or information that he may
 10 have so given may be offered or used against him in any
 11 civil or criminal prosecution, ~~or any evidence that is the~~
 12 ~~direct result of such evidence or information that he may~~
 13 ~~have so given~~, except in a prosecution for perjury committed
 14 in such testimony."

15 Section 62. Section 23-4785, R.C.M. 1947, is amended
 16 to read as follows:

17 "23-4785. ~~Commissioner~~ ~~how~~ ~~appointed,~~
 18 ~~qualifications, and offices~~ Creation of office. (1) There is
 19 ~~hereby created the position of a~~ commissioner of campaign
 20 finances and practices, who shall be appointed by a majority
 21 of a ~~four (4) member~~ four-member selection committee which
 22 shall be comprised of the speaker of the house, the
 23 president of the senate, and the minority floor leaders of
 24 both houses of the Montana legislature. However, if a
 25 majority of the members of the selection committee cannot

1 agree upon the selection of a commissioner within ~~thirty~~
 2 ~~(30)~~ days after ~~the passage and approval of this act a~~
 3 ~~vacancy occurs or a term expires~~, the Montana supreme court
 4 shall appoint a fifth public member to the selection
 5 committee. The majority of the five ~~(5)~~ members of the
 6 selection committee shall then select the commissioner.

7 (2) The individual selected to serve as the
 8 commissioner of campaign finances and practices shall be
 9 appointed for a ~~five (5) year~~ 5-year term, but he ~~shall~~ is
 10 thereafter ~~be~~ ineligible to serve as the commissioner of
 11 campaign finances and practices and ~~shall be~~ is precluded
 12 from being a candidate for public office as defined in this
 13 act for a period of ~~five (5)~~ years from the time that his
 14 term as commissioner expires.

15 (3) If for any reason a vacancy should occur in the
 16 position of commissioner, a successor shall be appointed
 17 within ~~thirty (30)~~ days as provided in subsection (1) to
 18 serve out the unexpired term. An individual who is selected
 19 to serve out the unexpired term of a preceding commissioner
 20 ~~shall be~~ is entitled to be reappointed for a ~~five (5) year~~
 21 5-year term as provided in subsection (1).

22 (4) The commissioner may be removed from office by
 23 impeachment as provided in ~~sections 95-2801 and 95-2802,~~
 24 ~~R.C.M. 1947.~~ He may also be prosecuted by the appropriate
 25 county attorney for official misconduct as specified in

1 ~~section 94-7-401, R.C.M. 1947.~~

2 (5) The commissioner of campaign finances and
 3 practices ~~shall receive~~ is entitled to an annual salary of
 4 ~~twenty-one thousand dollars (\$21,000),~~ and the salary
 5 commission may recommend salary increases to the
 6 legislature.

7 (6) The office of the commissioner ~~shall be~~ is
 8 attached to the office of the secretary of state for
 9 administrative purposes only, as specified in ~~section~~
 10 ~~82A-108,~~ except that the provisions of subsections (1) (b),
 11 (1) (c), (2) (a), (2) (b), (2) (d), (2) (e), and (3) (a) of
 12 ~~section 82A-108, R.C.M. 1947,~~ do not apply."

13 Section 63. Section 23-4786, R.C.M. 1947, is amended
 14 to read as follows:

15 "23-4786. Powers and duties of the commissioner. ~~The~~
 16 ~~commissioner shall exercise the following powers and perform~~
 17 ~~the following duties:~~

18 (1) The commissioner of campaign finances and
 19 practices shall be responsible for investigating all of the
 20 alleged violations of the election laws contained in Title
 21 ~~23, R.C.M. 1947,~~ or Title 37 and shall in conjunction with
 22 the county attorneys, be responsible for enforcing all of
 23 the state's election laws.

24 (2) The commissioner shall select an appropriate staff
 25 to enforce the provisions of Title 23, ~~R.C.M. 1947~~ and Title

1 ~~37~~, and he shall have the power to may hire and fire all
2 personnel under his supervision.

3 (3) The commissioner may hire or retain attorneys who
4 are properly licensed to practice before the supreme court
5 of the state of Montana to prosecute violations of Title 23,
6 ~~R.C.M., 1947~~ or Title 37. Any properly licensed attorney so
7 retained or hired shall exercise the powers of a special
8 attorney general, and he shall have the power to may
9 prosecute, subject to the control and supervision of the
10 commissioner and the provisions of ~~section 23-4788~~, any
11 criminal or civil action arising out of a violation of any
12 provision of Title 23, ~~R.C.M., 1947~~ or Title 37. All
13 prosecutions shall be brought in the state district court
14 for the county in which a violation has occurred or in the
15 district court for Lewis and Clark County. The authority to
16 prosecute as prescribed by this section includes the
17 authority to:

18 (a) institute proceedings for the arrest of persons
19 charged with or reasonably suspected of criminal violations
20 of Title 23, ~~R.C.M., 1947~~ or Title 37;

21 (b) attend and give advice to a grand jury when cases
22 involving criminal violations of Title 23, ~~R.C.M., 1947~~, or
23 Title 37 are presented;

24 (c) draw and file indictments, informations, and
25 criminal complaints;

1 (d) prosecute all actions for the recovery of debts,
2 fines, penalties, ~~and~~ or forfeitures accruing to the state
3 or county from persons convicted of violating Title 23,
4 ~~R.C.M., 1947~~ or Title 37; and

5 (e) do any other act necessary to successfully
6 prosecute a violation of any provision of Title 23, ~~R.C.M.,~~
7 ~~1947~~ or Title 37.

8 (4) The commissioner shall prescribe forms for
9 statements and other information required to be filed
10 pursuant to Title 23, ~~R.C.M., 1947~~, or Title 37 and furnish
11 forms and appropriate information to persons required to
12 file statements and information.

13 (5) The commissioner shall prepare and publish a
14 manual prescribing a uniform system for accounts for use by
15 persons required to file statements pursuant to Title 23,
16 ~~R.C.M., 1947~~ or Title 37.

17 (6) The commissioner shall accept and file any
18 information voluntarily supplied that exceeds the
19 requirements of Title 23, ~~R.C.M., 1947~~ or Title 37.

20 (7) The commissioner shall prescribe the manner in
21 which the county clerks and recorders shall receive, file,
22 collate, and maintain reports filed with them under Title
23 23, ~~R.C.M., 1947~~ or Title 37.

24 (8) The commissioner shall make statements and other
25 information filed with his office available for public

1 inspection and copying during regular office hours, and make
2 copying facilities available free of charge or at a charge
3 not to exceed actual cost.

4 (9) The commissioner shall preserve statements and
5 other information filed with his office for a period of ~~ten~~
6 ~~(10)~~ years from date of receipt.

7 (10) The commissioner shall prepare and publish
8 summaries of the statements received.

9 (11) The commissioner shall prepare and publish such
10 other reports as he ~~may deem~~ considers appropriate.

11 (12) The commissioner shall provide for wide public
12 dissemination of summaries and reports.

13 (13) The commissioner ~~shall have the authority to~~ may
14 investigate all statements filed pursuant to the provisions
15 of Title 23, ~~R.C.M. 1947,~~ or Title 37 and shall also
16 investigate alleged failures to file any statement or the
17 alleged falsification of any statement filed pursuant to the
18 provisions of Title 23, ~~R.C.M. 1947~~ or Title 37. Upon the
19 submission of a written complaint by any individual, the
20 commissioner shall also investigate any other alleged
21 violation of the provisions of Title 23, ~~R.C.M. 1947,~~ or
22 Title 37 or any rule ~~or regulation~~ adopted pursuant thereto.

23 (14) The commissioner shall promulgate and publish
24 rules ~~and regulations~~ to carry out the provisions of Title
25 23, ~~R.C.M. 1947,~~ or Title 37 and shall promulgate such rules

1 in conformance with the Montana Administrative Procedure
2 Act.

3 (15) The commissioner shall at the close of each fiscal
4 year report to the legislature and the governor concerning
5 the action he has taken, including the names, salaries, and
6 duties of all individuals in his employ and the money he has
7 disbursed. The commissioner shall also make further reports
8 on the matters within his jurisdiction as the legislature
9 may prescribe and shall also make recommendations for
10 further legislation as may appear desirable.

11 (16) The commissioner shall be responsible for
12 preparing, administering, and allocating the budget for his
13 office.

14 (17) The commissioner ~~shall have the power to~~ may
15 inspect any records, accounts, or books that must be kept
16 pursuant to the provisions of Title 23, ~~R.C.M. 1947~~ or Title
17 37, which are held by any political committee or candidate
18 so long as such inspection is made during reasonable office
19 hours.

20 (18) The commissioner ~~shall have the power to~~ may issue
21 orders of noncompliance as prescribed by ~~section~~ 23-4787.

22 (19) The commissioner ~~shall~~ may exercise all of the
23 powers conferred upon him by ~~this act or any other provision~~
24 ~~of state~~ law in any jurisdiction or political subdivision of
25 the state.

1 (20) After receiving the final campaign contribution
 2 and expenditure report filed as required by Title 23, ~~R.C.M.~~
 3 ~~1947~~, the commissioner shall inform the secretary of state,
 4 or the city or county clerk and recorder that each candidate
 5 who has been properly elected to any public office has filed
 6 his final contribution and expenditure report as specified
 7 in ~~section~~ 23-4778.

8 (21) The commissioner ~~shall have the authority to may~~
 9 administer oaths and affirmations, subpoena witnesses,
 10 compel their attendance, take evidence, and require the
 11 production of any books, papers, correspondence, memoranda,
 12 bank account statements of a political committee or
 13 candidate, or other records which are relevant or material
 14 for the purpose of conducting any investigation pursuant to
 15 the provisions of Title 23, ~~R.C.M. 1947~~ or Title 37."

16 Section 64. Section 23-4787, R.C.M. 1947, is amended
 17 to read as follows:

18 "23-4787. ~~Examination~~ Inspection of statements and
 19 issuance of orders of noncompliance. (1) Each statement
 20 filed with the commissioner during an election or within
 21 ~~sixty~~ 60 days thereafter shall be inspected within ~~ten~~
 22 10 days after the date upon which the statement is filed.
 23 If a person has not satisfied the provisions of Title 23,
 24 ~~R.C.M. 1947~~, or Title 37, the commissioner shall immediately
 25 notify ~~a~~ the person of the noncompliance. Such an order of

1 noncompliance shall be issued when:

2 (a) upon examination of the official ballot, it
 3 appears that the person has failed to file a statement as
 4 required by law or that a statement filed by a person does
 5 not conform to law; or

6 (b) it is determined that a statement filed with the
 7 commissioner does not conform to the requirements of Title
 8 23, ~~R.C.M. 1947~~ or Title 37, or that a person has failed to
 9 file a statement required by law.

10 (2) If an order of noncompliance is issued during a
 11 campaign period, or within ~~sixty~~ 60 days after an
 12 election, a candidate or political committee shall submit
 13 the necessary information within five ~~5~~ days after
 14 receiving the notice of noncompliance. Upon a failure to
 15 submit the required information within the time specified,
 16 the appropriate county attorney or the commissioner shall
 17 ~~have the authority to may~~ initiate a civil or criminal
 18 action pursuant to the procedures outlined in ~~section~~
 19 23-4788.

20 (3) If an order of noncompliance is issued during any
 21 other period than that described in subsection (2), a
 22 candidate or political committee shall submit the necessary
 23 information within ~~ten~~ 10 days after receiving the notice
 24 of noncompliance. Upon a failure to submit the required
 25 information within the time specified, the appropriate

1 county attorney or the commissioner shall initiate a civil
2 or criminal action pursuant to the procedures outlined in
3 ~~section~~ 23-4788.

4 (4) A candidate or political treasurer aggrieved by
5 the issuance of an order of noncompliance may seek judicial
6 review in the district court of the county in which the
7 candidate resides or the county in which the political
8 committee has its headquarters. All petitions for judicial
9 review filed pursuant to this ~~set~~ section shall be
10 expeditiously reviewed by the appropriate district court.

11 (5) Within ~~one hundred twenty~~ (120) days after the
12 date of each election, the commissioner shall examine and
13 compare each statement or report filed with the commissioner
14 pursuant to the provisions of Title 23, ~~R.C.M. 1947~~, or
15 Title 37 to determine whether a statement or report conforms
16 to the provisions of the law. The examination shall include
17 a comparison of all reports and statements received by the
18 commissioner pursuant to the requirements of Title 23,
19 ~~R.C.M. 1947~~ or Title 37. The commissioner may investigate
20 the source and authenticity of any contribution or
21 expenditure listed in any report or statement filed pursuant
22 to Title 23, ~~R.C.M. 1947~~, or Title 37 or the alleged failure
23 to report any contribution or expenditure required to be
24 reported pursuant to Title 23, ~~R.C.M. 1947~~ or Title 37."

25 Section 65. Section 23-4788, R.C.M. 1947, is amended

1 to read as follows:

2 "23-4788. ~~Prosecutions and powers of the Consultation~~
3 and cooperation with county attorney. (1) ~~When~~ Whenever the
4 commissioner determines that there appears to be sufficient
5 evidence to justify a civil or criminal prosecution ~~as~~
6 ~~specified in section 23-4793~~, he shall notify the county
7 attorney of the county in which the alleged violation
8 occurred and shall arrange to transmit to the county
9 attorney all information relevant to the alleged violation.
10 If the county attorney fails to initiate the appropriate
11 civil or criminal action within ~~thirty~~ (30) days after he
12 receives notification of the alleged violation, the
13 commissioner may then initiate the appropriate legal action.

14 (2) A county attorney may at any time prior to the
15 expiration of the ~~thirty~~ (30) 30-day time period
16 specified in subsection (1), waive his right to prosecute
17 and thereby authorize the commissioner to initiate the
18 appropriate civil or criminal action ~~as specified in~~
19 ~~section 23-4793~~.

20 (3) The provisions of subsection (1) do not apply to a
21 situation in which the alleged violation has been committed
22 by the county attorney of a county. In this instance, the
23 commissioner is authorized to directly prosecute any alleged
24 violation of Title 23, ~~R.C.M. 1947~~ or Title 37.

25 (4) If a prosecution is undertaken by the

1 commissioner, all court costs associated with the
 2 prosecution shall be paid by the state of Montana, and all
 3 finer and forfeitures imposed pursuant to a prosecution by
 4 the commissioner shall be deposited in the state general
 5 fund.

6 (5) Nothing in this act ~~shall prevent~~ prevents a
 7 county attorney from inspecting any records, accounts, or
 8 books which must be kept pursuant to the provisions of Title
 9 23, ~~R.C.M. 1947~~, or Title 37 that are held by any political
 10 committee or candidate involved in an election to be held
 11 within the county. However, such inspections must be
 12 conducted during reasonable office hours.

13 (6) A county attorney ~~shall have the authority to~~ may
 14 administer oaths and affirmations, subpoena witnesses,
 15 compel their attendance, take evidence, and require the
 16 production of any books, correspondence, memoranda, bank
 17 account statements of a political committee or candidate, or
 18 other records which are relevant or material for the purpose
 19 of conducting any investigation pursuant to the provisions
 20 of Title 23, ~~R.C.M. 1947~~ or Title 37."

21 Section 66. Section 23-4789, R.C.M. 1947, is amended
 22 to read as follows:

23 "23-4789. Right to inspect current accounts and
 24 reports. Every individual shall have the right to inspect
 25 any report or current account that must be kept or filed

1 pursuant to the provisions of Title 23, ~~R.C.M. 1947~~ or Title
 2 37, but only if such inspection will occur during reasonable
 3 office hours and in such a manner that normal office
 4 functions will not be unnecessarily interrupted.

5 Section 67. Section 23-4794, R.C.M. 1947, is amended
 6 to read as follows:

7 "23-4794. Secretary of state ~~must~~ to furnish copies of
 8 ~~this act~~ certain election laws to appropriate officials. The
 9 secretary of state shall, at the expense of the state,
 10 furnish the county clerk, and the city and town clerks, with
 11 copies of ~~Title 23, chapter 47, R.C.M. 1947~~ the election
 12 laws relating to penalties, campaign practices, campaign
 13 finances, and contests. The public official with whom a
 14 candidate files a declaration or certificate of nomination
 15 shall transmit ~~a copy of Title 23, chapter 47, R.C.M. 1947,~~
 16 one of these copies to the candidate. Such copies shall
 17 also be furnished to any other person required to file a
 18 statement. Upon his own information, or at the written
 19 request of any voter, the secretary of state shall provide a
 20 copy of ~~Title 23, chapter 47, R.C.M. 1947,~~ to any other
 21 individual who ~~may~~ be a candidate, or who ~~may~~ otherwise be
 22 required to make a statement required by ~~this act~~ Title 23
 23 or Title 37."

24 Section 68. Section 23-4795, R.C.M. 1947, is amended
 25 to read as follows:

1 "23-4795. Limitation on contributions. (1) Aggregate
2 contributions for all elections in a campaign by an
3 individual, other than the candidate, to a candidate and
4 political committees organized on his behalf ~~other than the~~
5 ~~candidate and his immediate family~~ are limited as follows:

6 (a) for candidates filed jointly for the office of
7 governor and lieutenant governor, not to exceed ~~fifteen~~
8 ~~hundred dollars~~ (\$1,500);

9 (b) for a candidate to be elected for state office in
10 a statewide election, other than the candidates for governor
11 and lieutenant governor, not to exceed ~~seven hundred fifty~~
12 ~~dollars~~ (\$750);

13 (c) for a candidate for public service ~~commissioner~~
14 ~~commissioner~~, not to exceed ~~four hundred dollars~~ (\$400);

15 (d) for a candidate for district court judge, not to
16 exceed ~~three hundred dollars~~ (\$300);

17 (e) for a candidate for the legislature, not to exceed
18 ~~two hundred fifty dollars~~ (\$250); and

19 (f) for a candidate for city or county office, not to
20 exceed ~~two hundred dollars~~ (\$200).

21 (2) An independent committee means a committee which
22 is not organized on behalf of a candidate or which is not
23 controlled either directly or indirectly by a candidate or
24 candidate's committee, and which does not act jointly with a
25 candidate or candidate's committee in conjunction with the

1 making of expenditures or accepting contributions. For the
2 purpose of limitation on contributions, political party
3 organizations are independent committees. Aggregate
4 contributions by an independent committee to a candidate and
5 political committees organized on his behalf for all
6 elections in a campaign are limited as follows:

7 (a) for candidates filed jointly for the offices of
8 governor and lieutenant governor, not to exceed ~~eight~~
9 ~~thousand dollars~~ (\$8,000);

10 (b) for a candidate to be elected for state office in
11 a statewide election, other than the candidates for governor
12 and lieutenant governor, not to exceed ~~two thousand dollars~~
13 ~~(\$2,000)~~;

14 (c) for a candidate for public service commissioner,
15 not to exceed ~~one thousand dollars~~ (\$1,000);

16 (d) for a candidate for district court judge, not to
17 exceed ~~two hundred fifty dollars~~ (\$250);

18 (e) for a candidate for the legislature, not to exceed
19 ~~two hundred fifty dollars~~ (\$250);

20 (f) for a candidate for city or county office, not to
21 exceed ~~two hundred dollars~~ (\$200).

22 ~~(3) (a) Aggregate contributions by a candidate and his~~
23 ~~immediate family to his own candidacy and committees~~
24 ~~organized on his behalf are limited for all elections in a~~
25 ~~campaign as follows:~~

1 ~~(i) for a candidate to be elected for state office in~~
 2 ~~a statewide election, other than the candidates for governor~~
 3 ~~and lieutenant governor, not to exceed six thousand dollars~~
 4 ~~(\$6,000);~~

5 ~~(ii) for candidates filed jointly for the offices of~~
 6 ~~governor and lieutenant governor, not to exceed nine~~
 7 ~~thousand dollars (\$9,000) to both candidates combined;~~

8 ~~(iii) for a candidate for state district office,~~
 9 ~~including but not limited to candidates for the state~~
 10 ~~senate, public service commission and district court judge,~~
 11 ~~not to exceed one thousand dollars (\$1,000) in all elections~~
 12 ~~in a campaign;~~

13 ~~(iv) for candidates for the state house of~~
 14 ~~representatives not to exceed five hundred dollars (\$500) in~~
 15 ~~all elections in a campaign; and~~

16 ~~(v) for a candidate for city or county office, not to~~
 17 ~~exceed three hundred dollars (\$300) in all elections in a~~
 18 ~~campaign.~~

19 ~~(b) As used in this section, a candidate's immediate~~
 20 ~~family means the candidate's spouse, and the ascendants,~~
 21 ~~descendants, brothers and sisters of the candidate and his~~
 22 ~~spouse, and their spouses.~~

23 ~~(4) [3] The limitations imposed by this section do not~~
 24 ~~apply to public funds contributed to a candidate under any~~
 25 ~~public financing provision of this code."~~

1 Section 69. Section 37-101, R.C.B. 1947, is amended to
 2 read as follows:

3 "37-101. Form of petition for referendum. The
 4 following shall be substantially the form of petition for
 5 the referendum to the people on any act passed by the
 6 legislative assembly legislature of the state of Montana:

7 ~~Warning. WARNING~~

8 Any person signing any name other than his own to this
 9 petition, or signing the same more than once for the same
 10 measure at one election, or who is not, at the time of
 11 signing the same, a qualified elector of this state, is
 12 punishable by a fine of not exceeding ~~five hundred dollars~~
 13 ~~(\$500), or imprisonment in the penitentiary not exceeding~~
 14 ~~two years, or by both such fine and imprisonment county jail~~
 15 ~~for a term not to exceed 6 months, or both, or imprisonment~~
 16 ~~in the state prison for a term not to exceed 10 years.~~

17 Petition for referendum.

18 To the Honorable . . . , Secretary of State of the state
 19 of Montana:

20 We, the undersigned citizens and qualified electors of
 21 the state of Montana, respectfully order that Senate (House)
 22 Bill Number . . . , entitled (title of act), passed by the
 23 . . . legislative assembly legislature of the state of
 24 Montana, at the regular (special) session of ~~said~~
 25 ~~legislative assembly, shall the legislature~~ be referred to

1 the people of the state for their approval or rejection, at
 2 the ~~regular~~, general, or special election to be held on the
 3 day of, 19.., and each for himself says: I have
 4 personally signed this petition; I am a qualified elector of
 5 the state of Montana; and my residence, post-office address,
 6 legislative representative district number, and voting
 7 precinct are correctly written after my name.

8 Name Residence
 9 Post-office address
 10 If in city, street and number
 11 Legislative representative district number
 12 Voting precinct

13 (Here follow numbered lines for signatures.)"

14 Section 70. Section 37-102, B.C.M. 1947, is amended to
 15 read as follows:

16 "37-102. Form of petition for initiative. (1) The
 17 following shall be substantially the form of petition for
 18 any law of the state of Montana proposed by the initiative:

19 ~~Warning~~ **WARNING**

20 Any person signing any name other than his own to this
 21 petition, or signing the same more than once for the same
 22 measure at one election, or who is not, at the time of
 23 signing the same, a qualified elector of this state, is
 24 punishable by a fine not exceeding ~~five hundred dollars~~
 25 ~~(\$500)~~, or imprisonment in the ~~penitentiary not exceeding~~

1 ~~two years, or by both such fine and imprisonment county jail~~
 2 ~~for a term not to exceed 6 months, or both, or imprisonment~~
 3 ~~in the state prison for a term not to exceed 10 years.~~

4 Petition for Initiative.

5 To the Honorable, Secretary of State of the ~~state~~
 6 ~~state~~ of Montana:

7 We, the undersigned qualified electors of the state of
 8 Montana, respectfully demand that the following proposed law
 9 ~~shall~~ be submitted to the qualified electors of the state of
 10 Montana, for their approval or rejection, at the ~~regular~~,
 11 general, or special election to be held on the day of
 12, 19.., and each for himself says:

13 I have personally signed this petition, and my
 14 residence, post-office address, legislative representative
 15 district, and voting precinct are correctly written after my
 16 name.

17 Name Residence.....
 18 Post-office address.....
 19 If in city, street and number.....
 20 Legislative representative district.....
 21 Voting precinct.....

22 (Numbered lines for names on each sheet.)

23 (2) Every ~~such~~ sheet for petitioner's signature shall
 24 be attached to a full and correct copy of the title and text
 25 of the measure so proposed by initiative petition; but ~~such~~

1 the petition may be filed with the secretary of state in
2 numbered sections, for convenience in handling, and
3 referendum petitions may be filed in sections in like
4 manner."

5 Section 71. Section 37-201, R.C.M. 1947, is amended to
6 read as follows:

7 "37-201. Form for people's initiative petition on the
8 question of calling a constitutional convention. The
9 following shall be substantially the form for the people's
10 initiative petition on the question of calling a
11 constitutional convention:

12 WARNING

13 Any person signing any name other than his own to this
14 petition, or signing the same more than once for the same
15 measure at one election, or who is not, at the time of
16 signing the same, a qualified elector of this state, is
17 punishable by a fine not exceeding ~~five hundred dollars~~
18 ~~(\$500), or imprisonment in the penitentiary not exceeding~~
19 ~~two (2) years, or by both. (Section 37-109, Revised Codes of~~
20 ~~Montana, 1947) county jail for a term not to exceed 6~~
21 ~~months, or both, or imprisonment in the state prison for a~~
22 ~~term not to exceed 10 years.~~

23 PEOPLE'S INITIATIVE PETITION
24 ON THE QUESTION OF CALLING
25 A CONSTITUTIONAL CONVENTION

1 To the Honorable, Secretary of State of the state
2 of Montana:

3 We, the undersigned qualified electors of the state of
4 Montana, respectfully request that the question of whether
5 there shall be an unlimited convention to revise, alter, or
6 amend the constitution be submitted to the qualified
7 electors of the state of Montana for their approval or
8 rejection at the general election to be held on the day
9 of, 19.., and each qualified elector says for himself:

10 I have personally signed this petition, and my
11 residence, ~~post-office~~ post-office address, and voting
12 precinct are correctly written after my name.

13 Name Residence
14 ~~Post-Office~~ Post-office Address
15 If in city, street and number
16 Voting precinct Representative Dist. No.
17 (Each sheet shall be in substantially the form above and
18 contain numbered lines for names.)"

19 Section 72. Section 37-202, R.C.M. 1947, is amended to
20 read as follows:

21 "37-202. Form for people's initiative petition for
22 constitutional amendment. The following shall be
23 substantially the form for people's initiative petition for
24 constitutional amendment:

25 WARNING

1 Any person signing any name other than his own to this
 2 petition, or signing the same more than once for the same
 3 measure at one election, or who is not, at the time of
 4 signing the same, a qualified elector of this state, is
 5 punishable by a fine not exceeding ~~five hundred dollars~~
 6 ~~(\$500), or imprisonment in the penitentiary not exceeding~~
 7 ~~two (2) years, or by both. (Section 37-109, Revised Codes of~~
 8 ~~Montana, 1947) county jail for a term not to exceed 6~~
 9 ~~months, or both, or imprisonment in the state prison for a~~
 10 ~~term not to exceed 10 years.~~

11 PEOPLE'S INITIATIVE PETITION
 12 FOR CONSTITUTIONAL AMENDMENT

13 To the Honorable, Secretary of State of the state
 14 of Montana:

15 We, the undersigned qualified electors of the state of
 16 Montana, respectfully request that the following proposed
 17 constitutional amendment ~~shall~~ be submitted to the qualified
 18 electors of the state of Montana, for their approval or
 19 rejection, at the statewide election to be held on the
 20 day of, 19.., and each qualified elector says for
 21 himself:

22 I have personally signed this petition, and my
 23 residence, ~~post-office~~ post-office address, and voting
 24 precinct are correctly written after my name.

25 Name Residence

1 ~~Post-Office~~ Post-office Address

2 If in city, street and number

3 Voting precinct Representative Dist. No.

4 (Each sheet for petitioner's signature shall be in

5 substantially the form above and contain numbered lines for

6 names. A full and correct copy of the title and text of the

7 proposed constitutional amendment shall be included in or

8 attached to each sheet of the petition.)"

9 Section 73. Section 37-103, R.C.M. 1947, is amended to
 10 read as follows:

11 "37-103. County clerk to verify signatures. (1) The
 12 county clerk of each county in which any ~~such~~ petition for
 13 initiative or referendum ~~shall be~~ is signed shall compare
 14 the signatures of the electors signing the same with their
 15 signatures on the registration books and blanks on file in
 16 his office, for the preceding general election, and shall
 17 thereupon attach to the sheets of ~~said~~ the petition
 18 containing ~~such~~ the signatures his certificate to the
 19 secretary of state, substantially as follows:

20 State of Montana, County of

21 To the Honorable, Secretary of State for Montana:

22 I,, county clerk of the county of, hereby
 23 certify that I have compared the signatures on (number of
 24 sheets) of the referendum (initiative) petition, attached
 25 hereto, with the signatures of said electors as they appear

1 on the registration books and blanks in my office; and I
 2 ~~believe that the signatures of (names of signers), numbering~~
 3 ~~(number of genuine signatures in each whole or partial~~
 4 ~~legislative representative district lying within the county~~
 5 ~~boundaries), are genuine. As to the remainder of the~~
 6 ~~signatures thereon, I believe that they are not genuine, for~~
 7 ~~the reason that, and I further certify that the~~
 8 ~~following names (.) do not appear on the registration~~
 9 ~~books and blanks in my office certify that the signatures of~~
 10 (number) signers are genuine and are marked thus on
 11 the petition, and I further certify that
 12 (number) signers marked thus on the petition
 13 do not appear on the registration books and
 14 blanks in my office.

15 Signed:
 16 , County Clerk.
 17 (Seal of Office) By
 18 Deputy

19 (2) ~~Every such Each~~ certificate shall ~~be is~~ prima
 20 facie evidence of the facts stated therein, and of the
 21 qualifications of the electors whose signatures are thus
 22 certified to be genuine, and the secretary of state shall
 23 consider and count only ~~such those~~ signatures on ~~such the~~
 24 petitions as ~~shall be are~~ so certified by said ~~the~~ county
 25 clerks to be genuine, ~~provided, that the The~~ secretary of

1 state may consider and count such of the remaining
 2 signatures as may be proved to be genuine, ~~and that whenever~~
 3 the parties so signing were legally qualified to sign such
 4 petitions, and but the official certificate of a notary
 5 public of the county in which the signer resides shall ~~be is~~
 6 required as to the fact for each of ~~such the~~ last-named
 7 signatures, ~~and the The~~ secretary of state shall further
 8 compare and verify the official signatures and seals of all
 9 notaries so certifying with their signatures and seals filed
 10 in his office. Such notaries' certificate shall be
 11 substantially in the following form:

12 State of Montana, ss.
 13 County of

14 I, , a duly qualified and acting notary public in
 15 and for the above-named county and state, do hereby certify:
 16 that I am personally acquainted with each of the following
 17 named electors whose signatures are affixed to the annexed
 18 petition, and I know of my own knowledge that they are
 19 qualified electors of the state of Montana, and of the
 20 county, legislative representative districts, and precincts
 21 written after their several names in the annexed petition,
 22 and that their residence and post-office address is
 23 correctly stated therein, to wit: (Names of such electors.)

24 In Testimony Whereof, I have hereunto set my hand and
 25 official seal this day of , 19...

1 Notary Public, in and for County,
2 State of Montana.

3 (3) The county clerk ~~shall~~ may not retain in his
4 possession any such petition, or any part thereof, for a
5 longer period than ~~two~~ 2 days for the first ~~two hundred~~ 200
6 signatures thereon, and ~~one~~ 1 additional day for each ~~two~~
7 ~~hundred~~ 200 additional signatures, or fraction thereof, on
8 the sheets presented to him, and at the expiration of such
9 time he shall forward the same to the secretary of state,
10 with his certificate attached thereto, as above provided.
11 The forms herein given are not mandatory, and if
12 substantially followed in any petition, ~~it shall~~ will be
13 sufficient, disregarding clerical and ~~merely~~ technical
14 errors."

15 Section 74. Section 37-104.1, R.C.M. 1987, is amended
16 to read as follows:

17 "37-104.1. ~~Attorney general's summary of referred as~~
18 ~~initiative measures statement by secretary of state for~~
19 ~~referendum measures placement on ballot~~ Statements by
20 attorney general and secretary of state. The secretary of
21 state ~~of the state of Montana~~ prior to certifying and
22 numbering of a referendum, initiative, or constitutional
23 amendment to the several counties of Montana as provided by
24 ~~sections 37-105 and 23-1402 [23-2506] of the Revised Codes~~
25 ~~of Montana, 1947,~~ shall transmit a copy of the measure to be

1 voted upon to the attorney general ~~of Montana.~~ Within ten
2 (10) days after the measure is filed with him, the attorney
3 general shall provide and return to the secretary of state a
4 statement in ordinary plain language explaining in not more
5 than ~~one hundred~~ (100) words the general purpose of the
6 measure submitted. In the case of referendum measures, the
7 secretary of state shall prepare a statement setting forth
8 the vote by which the referendum passed each house of the
9 ~~legislative assembly~~ legislature. The statement by the
10 secretary of state shall precede the attorney general's
11 statement on the printed form. The statement as prepared by
12 the attorney general, and the statement of the secretary of
13 state for referendum measures only, shall be in addition to
14 the legislative title of the measure, On the printing of
15 the ballot the statement of the secretary of state for
16 referendum measures only and the statement of the attorney
17 general shall precede the other title of the measure. In
18 providing the statement, the attorney general shall give a
19 true and impartial statement of the purpose of the measure
20 in plain, easily understood language and in such manner as
21 ~~shall~~ is not be an argument or likely to create prejudice
22 either for or against the measure."

23 Section 75. There is a new R.C.M. section that reads
24 as follows:

25 Informational pamphlets. (1) Whenever a ballot issue is

1 to be submitted to the people, the secretary of state shall
2 have printed pamphlets containing the information specified
3 in 37-107.

4 (2) Whenever more than one ballot issue is to be voted
5 on at a single election, the secretary of state may publish
6 a single pamphlet for all of the ballot issues.

7 (3) The pamphlets are to be distributed as provided in
8 37-107.

9 Section 76. Section 37-107, R.C.H. 1947, is amended to
10 read as follows:

11 "~~37-107. Printing and distribution of measures~~
12 Preparation of pamphlets. (1) The secretary of state shall
13 furnish to the department of administration a copy of each
14 of the proposed measures to be submitted to the people, and
15 ~~make requisition on the department of administration,~~ for
16 the printing and delivery to him of pamphlets for all
17 proposed constitutional amendments, initiative, and
18 referendum measures to be submitted to a vote of the people.

19 (2) The department of administration, shall, no later
20 than ~~five~~ (5) weeks before any general or special election,
21 at which any proposed law is to be submitted to the people,
22 have printed a true copy of the title and text of each
23 measure to be submitted, with the number and form in which
24 the question will be printed on the official ballot. The
25 department ~~of administration~~ shall call for bids and

1 contract with the lowest responsible bidder for the printing
2 of pamphlets containing the proposed law to be submitted to
3 the people.

4 (3) The proposed law to be submitted shall be printed
5 and forwarded to the county clerk and recorder of each
6 county.

7 (4) The number of ~~proposed measures~~ pamphlets to be
8 printed shall be at least ~~five per cent~~ (5%) more than the
9 number of qualified electors, as shown by the registration
10 lists of the several counties of the state at the last
11 preceding general election.

12 (5) The information to be printed shall be printed in
13 the following order as applicable:

14 (a) the statement of the secretary of state;

15 (b) the statement of the attorney general;

16 (c) the title and body of the proposed measure;

17 ~~(d) the exact text of the constitutional provision to~~
18 be revised;

19 ~~(e)~~ (e) the manner in which the measure will appear on
20 the ballot;

21 ~~(f)~~ (f) the argument advocating approval of the
22 measure;

23 ~~(g)~~ (g) the argument advocating rejection of the
24 measure;

25 ~~(h)~~ (h) the argument rebutting the argument advocating

1 approval; and

2 ~~to~~ (i) the argument rebutting the argument advocating
3 rejection.

4 {6} The secretary of state shall distribute to each
5 county clerk, no later than ~~four~~ ~~(4)~~ weeks before the
6 election at which the proposed measure(s) will be voted
7 upon, a sufficient number of pamphlets to furnish one copy
8 to every voter in his county. Each county clerk shall mail
9 to each registered voter in the county at least one copy of
10 the pamphlet within ~~two~~ ~~(2)~~ weeks from the date of his
11 receipt of the pamphlets from the secretary of state."

12 Section 77. Severability. If a part of this act is
13 invalid, all valid parts that are severable from the invalid
14 part remain in effect. If a part of this act is invalid in
15 one or more of its applications, the part remains in effect
16 in all valid applications that are severable from the
17 invalid applications.

18 Section 78. Repealer. Sections 23-3021, 23-3030, and
19 23-4404, R.C.M. 1947, are repealed.

-End-

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LC 0047

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 27

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO ELECTIONS AND TO REPEAL SECTIONS 23-3021, 23-3030, AND 23-4404.

(This summary does not include discussion of routine form or grammatical changes.)

One frequent change which should be noted is "this act" to "Title 23 and Title 37" or "Title 23 or Title 37". The change is made to enable a reference to "this title" to be made under recodification. Where there is a possibility of a change in meaning, the term change is noted.

Sections 1, 2, 3. 23-2601, 23-4777. The changes are made to facilitate a single definitional section for the title. Subsection 23-4777(2) is deleted to avoid confusion with the definition of commissioners in 23-2601(9). Section 3 is new and will replace 23-4777(2).

Section 4. 23-2605. Subsection (1)(a) is changed by adding a phrase which makes it applicable to precincts of 100 or more; as it read before (1)(a) and (1)(b) were somewhat contradictory.

Section 5. 23-2704. The reference to an "official" newspaper is changed to one of general circulation. This is the preferred terminology and avoids possible problems with freedom of the press.

Section 6. 23-2802. Subsection (2) is deleted; its provisions are incorporated into 37-107 and a new proposed section (see sections 69 and 70). Under the proposal the pamphlet requirements will be placed together for all ballot issues, and constitutional amendments will not be treated separately.

Section 7. 23-2901. The reference to "94-1401 through 94-1424" is changed to "Title 23 or Title 37". This seems to reflect the intent of the section but it does broaden the scope.

Section 8. 23-3002. The section has been rewritten, and "this act" has been changed to encompass all election laws unless otherwise provided. The change may increase the custody burdens on the clerk but the "otherwise" provision should relieve most problems.

Section 9. 23-3003. The section is extensively rewritten for grammar and clarity.

Section 10. 23-3014. The material added to subsection (1)(b) is taken from 23-3030 (which is being recommended for repeal). Subsection (3) is deleted to reflect the changes in the constitution and the fact that in practice the subsection is not carried out. Subsections (1)(e) and (3) also have problems related to the rights of the convicted under the new constitution.

Section 11. 23-3015. Subsection (1)(d) is made (2)(d); it was erroneously placed in subsection (1) and this amendment corrects the error.

Section 12. 23-3018. A reference to "this act" is changed to "Title 23 or Title 37" to permit a reference to "this title" under recodification. Subsection (3) is deleted since it is repetitive of material in 23-3610.

Section 13. 23-3026. No additional costs should be imposed since Title 37 doesn't place any additional duties on the county clerk.

Section 14. 23-3304. The principal change is the description of who must file where. This change is made in several sections so that uniformity can be achieved. A reference to indigent candidates is made in subsection (6)(a) for clarity.

Section 15. 23-3305. The material telling where declarations are filed is dropped, since it is adequately covered by 23-3304.

Section 16. 23-3308. Subsection (4)(b) is modified to provide for the destruction of tickets in the blank ballot box, but to no longer require the election judge to carry out this duty. The change is needed because after the recount period the election judge will generally not have custody of the blank ballot box. It is intended that whoever has custody will carry out the destruction.

Section 17. 23-3311. A reference to "chairman" in subsection (4)(e) is deleted as that term is nowhere defined or otherwise mentioned.

Section 18. 23-3312. A reference to "canvassers" in subsection (2) is changed to "those persons" to avoid confusion with the board of county canvassers.

Section 19. 23-3313. The lists of offices are changed for uniformity, see section 14. The requirement of sending material to the secretary of state in subsection (2) is taken from 23-3314.

Sections 20, 21. 23-3314, 23-4016. The state treasurer's office is no longer a constitutionally mandated, elected position and changes should be made. The superintendent of public instruction is suggested as an appropriate individual to carry out the functions given by these sections to the state treasurer. Subsection (1) of 23-3314 is deleted as it is covered by 23-3313 as recommended for amendment (section 19). The list of officials in 23-3314 is rewritten to promote uniformity throughout the election code.

Section 22. 23-3315. "This act" is changed to "Title 23 or Title 37". This change probably broadens the scope of the original section but does not enlarge the traditional means of enforcing statutorily imposed duties on officials via official misconduct and equitable relief.

Section 23. 23-3316. A reference to a township office is deleted.

Section 24. 23-3319. Subsection (3) is deleted. It is a strangely worded provision and is adequately covered by other provisions of Chapter 33.

Sections 25, 26. 23-3403, 23-3405. "This act" is changed to "the election laws of this state". This should not be a substantial change as a party could not act in contravention of other state laws even if it were not expressly stated.

Section 27. 23-3506. "This act" is changed to "the election laws of this state"; the meaning should remain the same. Subsection (2) is deleted with its provisions incorporated into 23-3606.

Section 28. 23-3512. A reference to "township" is deleted.

Section 29. 23-3513. The state treasurer is deleted from the list of elected officials, a reference to township is deleted, and the modifier "associate" is deleted from associate justice. These changes reflect changes in the constitution and the fact that certain offices are no longer voted upon.

Section 30. 23-3515. Subsection (1) is slightly rewritten for clarity.

Section 31. 23-3606. Material deleted from 23-3506 is rewritten in subsection (4).

Section 32. 23-3610. Subsection (3) is changed for clarity. Subsection (6) is deleted since it is covered by 23-4006.

Sections 33, 34, 35. 23-3611, 23-3612, 23-3613. The principal changes reflect the requirements of the new constitution and their effect on qualifications of electors. Subsection (2) of 23-3612 is rewritten for clarity.

Section 36. 23-3708. The last "it" in subsection (1) is changed to "the larger envelope" for clarity.

Sections 37, 38. 23-3711, 23-3713. The provisions dealing with rejected absentee ballots have been changed to eliminate some confusion. The alternative requiring the least number of envelopes is selected.

Section 39. 23-3715. The phrase which is added will prevent rejected ballots from being voted under this section.

Section 40. 23-3801. Sections 23-3820 and 23-3821 are suggested for repeal (see LC 0046). This necessitates changing "23-3801 through 23-3822" to "23-3801 through 23-3819 and 23-3822".

Section 41. 23-3807. The term "custodian" is changed to "registrar". Custodian is nowhere defined and the earlier subsections indicate the registrar is the proper individual to issue the certificate.

Section 42. 23-3822. Sections 23-3820 and 23-3821 are proposed for repeal in LC 0046, necessitating a change in the reference to 23-3821.

Section 43. 23-3905. A reference to "inspectors" is deleted and replaced by "election judges". Inspector is nowhere defined and it appears that the election judges are the appropriate replacements.

Section 44. 23-4011. The changes are made for grammar and clarity.

Section 45. 23-4013. The list is changed for uniformity, see section 14.

Section 46. 23-4014. The county clerk issues certificates only to those offices which are voted on in only one county, other than judge of the district court. The changes make this clear and subsection (3) is no longer required.

Sections 47, 48, 49. 23-4015, 23-4103, 23-4117. The list is changed for uniformity, see section 14.

Section 50. 23-4121. References to "state treasurer" and "township officer" are dropped.

Sections 51, 52, 53. 23-4401, 23-4402. The changes are made to bring the procedure for filling vacancies in accord with the federal constitution.

Section 54. 23-4737. "Organization" is changed to "committee" in political organization to mesh with the terminology of the campaign practices law.

Sections 55, 56, 57, 58. 23-4757, 23-4758, 23-4759, 23-4760. The scope of these sections is enlarged to encompass Title 23 or Title 37 rather than "this act". The change is necessitated by the substantial revising of the penalty sections. In 23-4759 the time for commencing an action is changed from 40 days to 2 years to reflect 23-4793(4), which is a later enactment.

Section 59. 23-4763. "This act" is deleted but the scope of the section is not changed. Note, that as it reads (both before and after amendment) the section applies to all elections, including irrigation districts, drainage districts, etc.

Section 60. 23-4767. The section is changed considerably to reflect several court opinions. The reference to congressional and state legislative races is deleted because the federal constitution and the old state constitution left these matters up to the respective legislative bodies. (50 Mont. 134 (1914)). The language had been deleted by Allen Smith and is here restored and then amended out. The new constitution permits the legislature to allow the courts to consider state legislative contests, and the amendment reflects this. The legislature should give consideration to this point. The material related to awarding the office to the second place finisher is deleted because of the decision in 51 Mont. 176 (1915).

Section 61. 23-4770. "This act" is changed to "Title 23 or Title 37", which will expand the scope of the section but which seems to reflect its intent.

Section 62. 23-4785. New language is added to provide for disagreement by the four-member committee after the first commissioner is selected. The provisions tied to the effective date of the act are deleted as they are obsolete.

Section 63. 23-4786. "Title 37" is added to references to "Title 23". In most subsections no change will be brought about. However, subsection (14), dealing with rules, may expand the commissioner's duties and should be looked at carefully.

Section 64. 23-4787. "Title 37" is added into references to "Title 23". This should not cause any changes since Title 37 does not require any filings with the commissioner.

Section 65. 23-4788. Subsection (4) is changed due to a proposed repeal of 23-4793 in LC 0046 in connection with the revising of the penalty provisions. The additional material represents a change from 23-4793(9), its source. Subsection (9) provided that all fines and forfeitures went to the state general fund, even if the prosecution was carried out by the county attorney. The proposed amendment would have the fines go to the state general fund when the commissioner prosecutes. Under 95-2228, when the county attorney prosecutes, the fines will go to the county general fund. This represents a change in the disposition of collected fines and should be looked at closely.

Section 66. 23-4789. The effective date provision is deleted.

Section 67. 23-4794. The reference to "Title 23, chapter 47" is changed to a general description of the areas covered by that chapter. This is necessitated by the extensive revision of chapter 47.

Section 68. 23-4795. The deletion of subsection (3) is necessitated by the United States Supreme Court decision in Buckley v. Valeo, 46 L. Ed. 659 (1976), which prohibited restrictions on spending by a candidate with his own money. The court indicated that restrictions on the family's spending would be permissible if they were not treated differently from other contributors.

Sections 69 through 72. 37-101, 37-102, 37-201, 37-202. The penalty statements of the warning on the petition have been changed to reflect the proposed changes in the penalty provisions of the election laws (LC 0046). The changes in the penalty sections were made to reflect the changes brought about by the new criminal code.

Section 73. 37-103. The form of the certificate is changed to that actually employed by the clerks and approved by the Montana Supreme Court (125 Mont. 419 (1952)).

Section 74. 37-104.1. The phrase "On the printing of the ballot" is added. The phrase was lost during an earlier amending process and is now restored.

Sections 75, 76. 37-107. The new section and the amendments to 37-107 are intended to clarify the provisions relating to the voter pamphlet. Combining several issues into one pamphlet is now made expressly permissible. The new 37-107(5)(d) comes from 23-2802(2).

Section 77. Severability.

Section 78. 23-3021, 23-3030, 23-4404. This is a repealer section. Section 23-3021 is suggested for repeal because it discriminates against naturalized citizens. The honest naturalized citizen will be burdened by bringing the requisite papers while the less honest person will just take an oath that he is a citizen and be done. The language of 23-3030 is incorporated into amended 23-3014 and is no longer needed. Section 23-4404 gives qualifications for election to the federal congress; these qualifications are exclusively provided for by the United States Constitution.

Approved by Committee
on Judiciary

1 SENATE BILL NO. 27
 2 INTRODUCED BY BLAYLOCK
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO ELECTIONS AND TO REPEAL
 6 SECTIONS 23-3021, 23-3030, AND 23-4404, R.C.M. 1947."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 23-2601, R.C.M. 1947, is amended to
 10 read as follows:
 11 "23-2601. Definitions. As used in ~~this act~~ Title 23
 12 and Title 31, unless the context clearly indicates
 13 otherwise, the following definitions apply:
 14 (1) "Election" means a general, special, ~~or~~ primary
 15 ~~nominating-municipal election, or an election in a school~~
 16 ~~district held to choose a public officer or submit an issue~~
 17 for the approval or rejection of the people.
 18 (2) "General election" means an election held for the
 19 election of public officers throughout the state at times
 20 specified by law.
 21 (3) "Special election" means an election called by the
 22 proper authorities to fill vacancies or to raise money.
 23 (4) "Vacancy" means an office which does not have an
 24 incumbent who has a right to exercise its functions and take
 25 its fees or emoluments."

1 (5) "Primary" or "primary election" means a statutory
 2 procedure for nominating candidates to public office at the
 3 polls.
 4 (6) "Party" means any political organization which at
 5 the last preceding election for governor polled at least
 6 ~~three-per-cent (3%)~~ of the votes for governor.
 7 (7) "Taxpayer" means a person who has paid a tax on
 8 property assessed on a county or city assessment roll next
 9 preceding the election at which a question is to be
 10 submitted to the vote of the taxpayers.
 11 (8) "Registrar" means the county clerk and recorder
 12 and any regularly appointed deputy clerk and recorder.
 13 (9) "Commissioners" means the board of county
 14 commissioners.
 15 (10) "City" means any incorporated city or town.
 16 (11) "Council" means any municipal council or
 17 commission."
 18 Section 2. Section 23-4777, R.C.M. 1947, is amended to
 19 read as follows:
 20 "23-4777. Definitions. As used in Title 23, ~~chapter~~
 21 ~~47-R-6-M-1947~~ and Title 37, unless the context clearly
 22 indicates otherwise, the following definitions apply:
 23 (1) "Candidate" means an individual who has filed a
 24 declaration of nomination, certificate of nomination, or
 25 acceptance of nomination for public office as required by

*The Changes in S.B. 27 are attached
 Please refer to White Copy.* SECOND READING

1 law, but does not include a candidate for national office
2 who is subject to the provisions of federal election
3 campaign laws.

4 ~~(2) -- "Commissioner" means the commissioner of campaign~~
5 ~~finances and practices as described in section 23-4705.~~

6 (3)(2) "Election" means a general, special, or primary
7 election held to choose a public officer or submit an issue
8 for the approval or rejection of the people.

9 (4)(3) "Issue" or "ballot issue" means a proposal
10 submitted to the people at an election for their approval or
11 rejection including, but not limited to, initiatives,
12 referenda, proposed constitutional amendments, recall
13 questions, school levy questions, bond issue questions, or a
14 ballot question.

15 (5)(4) "Public office" means a state, county,
16 municipal, school, or other district office that is filled
17 by the people at an election.

18 (6)(5) "Contribution" means:

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

22 (b) a transfer of funds between political committees;

23 (c) the payment by a person other than a candidate or
24 political committee of compensation for the personal
25 services of another person that are rendered to a candidate

1 or political committee; but

2 (d) "contribution" does not mean services provided
3 without compensation by individuals volunteering a portion
4 or all of their time on behalf of a candidate or political
5 committee, nor ~~or~~ meals and lodging provided by individuals
6 in their private residence for a candidate or other
7 individual.

8 (7)(6) "Expenditure" means a purchase, payment,
9 distribution, loan, advance, promise, pledge, or gift of
10 money or anything of value made for the purpose of
11 influencing the results of an election, but "expenditure"
12 does not mean:

13 (a) services, food, or lodging provided in a manner
14 that they are not contributions under ~~this act~~ nor
15 subsection (5); or

16 (b) payments by a candidate for his personal travel
17 expenses or for food, clothing, lodging, or personal
18 necessities for himself and his family.

19 (8)(7) "Anything of value" means any goods that have a
20 certain utility to the recipient that is real and that
21 ordinarily is not given away free, but is purchased.

22 (9)(8) "Political committee" means a combination of
23 two or more individuals, or a person other than an
24 individual, the primary or incidental purpose of which is to
25 support or oppose a candidate or issue or to influence the

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 27

Respectfully report as follows: That SENATE Bill No. 27, the introduced bill, be amended as follows:

- 1. Amend page 11, section 10, lines 23 and 24.
Following: line 22
Strike: subsection (e) in its entirety
Insert: "(e) whenever the incarceration of an elector in a penal institution for a felony conviction is legally established; or"
~~XXXXXXXX~~
- 2. Amend page 17, section 14, line 2.
Following: "than"
Insert: "a legislator or a"
- 3. Amend page 26, section 19, line 11.
Following: "than"
Insert: "a legislator or a"
- 4. Amend page 34, section 27, line 14.
Following: line 13
Strike: "marking by electors --"
- ~~XXXXXX~~ 5. Amend page 53, section 44, line 4.
Following: "rejected"
Strike: "if they do not"
Insert: "because of failure to"

6. Amend page 53, section 45, line 16.
Following: "than"
Insert: "a legislator or a"
7. Amend page 55, section 48, line 4.
Following: "than"
Insert: "a legislator or a"
8. Amend page 56, section 48, line 23.
Following: "than"
Insert: "a legislator or a"
9. Amend page 58, section 49, line 15.
Following: "than"
Insert: "a legislator or a"
10. Amend page 79, section 66, lines 21 through line 4 on page 80.
Following: line 20
Strike: section 66 in its entirety
Renumber: subsequent sections

AND AS SO AMENDED DO PASS

SEN. JEAN A. TURNAGE, Chairman

1 SENATE BILL NO. 27
2 INTRODUCED BY BLAYLOCK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO ELECTIONS AND TO REPEAL
6 SECTIONS 23-3021, 23-3030, AND 23-4404, R.C.M. 1947."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 23-2601, R.C.M. 1947, is amended to
10 read as follows:

11 "23-2601. Definitions. As used in ~~this act~~ Title 23
12 and Title 37, unless the context clearly indicates
13 otherwise, the following definitions apply:

14 (1) "Election" means a general, special, or primary
15 ~~nominating, municipal election, or an election in a school~~
16 ~~district held to choose a public officer or submit an issue~~
17 for the approval or rejection of the people.

18 (2) "General election" means an election held for the
19 election of public officers throughout the state at times
20 specified by law.

21 (3) "Special election" means an election called by the
22 proper authorities to fill vacancies or to raise money.

23 (4) "Vacancy" means an office which does not have an
24 incumbent who has a right to exercise its functions and take
25 its fees or emoluments.

1 (5) "Primary" or "primary election" means a statutory
2 procedure for nominating candidates to public office at the
3 polls.

4 (6) "Party" means any political organization which at
5 the last preceding election for governor polled at least
6 ~~three per cent (3%)~~ of the votes for governor.

7 (7) "Taxpayer" means a person who has paid a tax on
8 property assessed on a county or city assessment roll next
9 preceding the election at which a question is to be
10 submitted to the vote of the taxpayers.

11 (8) "Registrar" means the county clerk and recorder
12 and any regularly appointed deputy clerk and recorder.

13 (9) "Commissioners" means the board of county
14 commissioners.

15 (10) "City" means any incorporated city or town.

16 (11) "Council" means any municipal council or
17 commission."

18 Section 2. Section 23-4777, R.C.M. 1947, is amended to
19 read as follows:

20 "23-4777. Definitions. As used in Title 23, ~~chapter~~
21 ~~47, R.C.M. 1947~~ and Title 37, unless the context clearly
22 indicates otherwise, the following definitions apply:

23 (1) "Candidate" means an individual who has filed a
24 declaration of nomination, certificate of nomination, or
25 acceptance of nomination for public office as required by

AMENDMENTS ARE ATTACHED; REFER TO INTRODUCED BILL--DUE TO DEADLINE
DATE, THE BILL WAS NOT REPRINTED.

THIRD READING

1 law, but does not include a candidate for national office
2 who is subject to the provisions of federal election
3 campaign laws.

4 ~~(2) "Commissioner" means the commissioner of campaign~~
5 ~~finance and practices as described in section 22-4795.~~

6 ~~(3) (2)~~ "Election" means a general, special, or primary
7 election held to choose a public officer or submit an issue
8 for the approval or rejection of the people.

9 ~~(4) (3)~~ "Issue" or "ballot issue" means a proposal
10 submitted to the people at an election for their approval or
11 rejection including, but not limited to, initiatives,
12 referenda, proposed constitutional amendments, recall
13 questions, school levy questions, bond issue questions, or a
14 ballot question.

15 ~~(5) (4)~~ "Public office" means a state, county,
16 municipal, school, or other district office that is filled
17 by the people at an election.

18 ~~(6) (5)~~ "Contribution" means:

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

22 (b) a transfer of funds between political committees;

23 (c) the payment by a person other than a candidate or
24 political committee of compensation for the personal
25 services of another person that are rendered to a candidate

1 or political committee; but

2 (d) ~~"contribution" does not mean~~ services provided
3 without compensation by individuals volunteering a portion
4 or all of their time on behalf of a candidate or political
5 committee, ~~nor~~ or meals and lodging provided by individuals
6 in their private residence for a candidate or other
7 individual.

8 ~~(7) (6)~~ "Expenditure" means a purchase, payment,
9 distribution, loan, advance, promise, pledge, or gift of
10 money or anything of value made for the purpose of
11 influencing the results of an election, but "expenditure"
12 does not mean:

13 (a) services, food, or lodging provided in a manner
14 that they are not contributions under ~~this act, nor~~
15 subsection (5); or

16 (b) payments by a candidate for his personal travel
17 expenses or for food, clothing, lodging, or personal
18 necessities for himself and his family.

19 ~~(8) (7)~~ "Anything of value" means any goods that have a
20 certain utility to the recipient that is real and that
21 ordinarily is not given away free, but is purchased.

22 ~~(9) (8)~~ "Political committee" means a combination of
23 two or more individuals, or a person other than an
24 individual, the primary or incidental purpose of which is to
25 support or oppose a candidate or issue or to influence the

MR. PRESIDENT:

We, your committee on JUDICIARY

having had under consideration SENATE Bill No. 27

Respectfully report as follows: That SENATE Bill No. 27, the introduced bill, be amended as follows:

- 1. Amend page 11, section 10, lines 23 and 24.
Following: line 22
Strike: subsection (e) in its entirety
Insert: "(e) whenever the incarceration of an elector in a penal institution for a felony conviction is legally established; or"
~~XXXXXXXX~~
- 2. Amend page 17, section 14, line 22.
Following: "than"
Insert: "a legislator or a"
- 3. Amend page 26, section 19, line 11.
Following: "than"
Insert: "a legislator or a"
- 4. Amend page 34, section 27, line 14.
Following: line 13
Strike: "marking by electors --"
- ~~XXXXXX~~ 5. Amend page 53, section 44, line 4.
Following: "rejected"
Strike: "if they do not"
Insert: "because of failure to"

6. Amend page 53, section 45, line 16.
Following: "than"
Insert: "a legislator or a"
7. Amend page 55, section 48, line 4.
Following: "than"
Insert: "a legislator or a"
8. Amend page 56, section 48, line 23.
Following: "than"
Insert: "a legislator or a"
9. Amend page 58, section 49, line 15.
Following: "than"
Insert: "a legislator or a"
10. Amend page 79, section 66, lines 21 through line 4 on page 80.
Following: line 20
Strike: section 66 in its entirety
Renumber: subsequent sections

AND AS SO AMENDED DO PASS

SEN. JEAN A. TURNAGE, Chairman

HOUSE OF REPRESENTATIVES

March 22, 1977

HOUSE COMMITTEE ON JUDICIARY AMENDMENTS TO SENATE BILL 27

1. Amend page 36, section 28, subsection (7), line 10.

Following: "categories"

Strike: "columns"

Insert: "categories"

2. Amend page 94, section 75, line 23 through line 8 on page 95.

Following: line 22

Strike: section 75 in its entirety

Renumber: subsequent sections

AS AMENDED CONCURRED IN

1 SENATE BILL NO. 27
 2 INTRODUCED BY BLAYLOCK
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO ELECTIONS AND TO REPEAL
 6 SECTIONS 23-3021, 23-3030, AND 23-4404, R.C.M. 1947."

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9 Section 1. Section 23-2601, R.C.M. 1947, is amended to
 10 read as follows:

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 12 and Title 37, unless the context clearly indicates
 13 otherwise, the following definitions apply:

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 15 ~~nominating, municipal election, or an election in a school~~
 16 ~~district held to choose a public officer or submit an issue~~
 17 for the approval or rejection of the people.

18 (2) "General election" means an election held for the
 19 election of public officers throughout the state at times
 20 specified by law.

21 (3) "Special election" means an election called by the
 22 proper authorities to fill vacancies or to raise money.

23 (4) "Vacancy" means an office which does not have an
 24 incumbent who has a right to exercise its functions and take
 25 its fees or emoluments.

1 (5) "Primary" or "primary election" means a statutory
 2 procedure for nominating candidates to public office at the
 3 polls.

4 (6) "Party" means any political organization which at
 5 the last preceding election for governor polled at least
 6 ~~three per cent (3%)~~ of the votes for governor.

7 (7) "Taxpayer" means a person who has paid a tax on
 8 property assessed on a county or city assessment roll next
 9 preceding the election at which a question is to be
 10 submitted to the vote of the taxpayers.

11 (8) "Registrar" means the county clerk and recorder
 12 and any regularly appointed deputy clerk and recorder.

13 (9) "Commissioners" means the board of county
 14 commissioners.

15 (10) "City" means any incorporated city or town.

16 (11) "Council" means any municipal council or
 17 commission.

18 Section 2. Section 23-4777, R.C.M. 1947, is amended to
 19 read as follows:

20 "23-4777. Definitions. As used in Title 23, ~~chapter~~
 21 ~~47, R.C.M. 1947~~ and Title 37, unless the context clearly
 22 indicates otherwise, the following definitions apply:

23 (1) "Candidate" means an individual who has filed a
 24 declaration of nomination, certificate of nomination, or
 25 acceptance of nomination for public office as required by

1 law, but does not include a candidate for national office
2 who is subject to the provisions of federal election
3 campaign laws.

4 ~~(2) "Commissioner" means the commissioner of campaign~~
5 ~~finances and practices as described in section 23-4785.~~

6 ~~(3) (2)~~ "Election" means a general, special, or primary
7 election held to choose a public officer or submit an issue
8 for the approval or rejection of the people.

9 ~~(4) (3)~~ "Issue" or "ballot issue" means a proposal
10 submitted to the people at an election for their approval or
11 rejection including, but not limited to, initiatives,
12 referenda, proposed constitutional amendments, recall
13 questions, school levy questions, bond issue questions, or a
14 ballot question.

15 ~~(5) (4)~~ "Public office" means a state, county,
16 municipal, school, or other district office that is filled
17 by the people at an election.

18 ~~(6) (5)~~ "Contribution" means:

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

22 (b) a transfer of funds between political committees;

23 (c) the payment by a person other than a candidate or
24 political committee of compensation for the personal
25 services of another person that are rendered to a candidate

1 or political committee; but

2 (d) ~~"contribution" does not mean~~ services provided
3 without compensation by individuals volunteering a portion
4 or all of their time on behalf of a candidate or political
5 committee, ~~nor~~ or meals and lodging provided by individuals
6 in their private residence for a candidate or other
7 individual.

8 ~~(7) (6)~~ "Expenditure" means a purchase, payment,
9 distribution, loan, advance, promise, pledge, or gift of
10 money or anything of value made for the purpose of
11 influencing the results of an election, but "expenditure"
12 does not mean:

13 (a) services, food, or lodging provided in a manner
14 that they are not contributions under ~~this act, nor~~
15 subsection (5); or

16 (b) payments by a candidate for his personal travel
17 expenses or for food, clothing, lodging, or personal
18 necessities for himself and his family.

19 ~~(8) (7)~~ "Anything of value" means any goods that have a
20 certain utility to the recipient that is real and that
21 ordinarily is not given away free, but is purchased.

22 ~~(9) (8)~~ "Political committee" means a combination of
23 two or more individuals, or a person other than an
24 individual, the primary or incidental purpose of which is to
25 support or oppose a candidate or issue or to influence the

1 result of an election by any expenditure.

2 ~~(40)~~ (9) "Individual" means a human being.

3 ~~(44)~~ (10) "Person" means an individual, corporation,
4 association, firm, partnership, cooperative, committee,
5 club, union, or other organization or group of individuals,
6 or a candidate as defined in subsection (1) of this
7 section."

8 Section 3. There is a new R.C.M. section that reads as
9 follows:

10 Commissioner of campaign finances and practices. In
11 23-4778 through 23-4795, "commissioner" means the
12 commissioner of campaign finances and practices created by
13 23-4785(1), unless the context clearly indicates otherwise.

14 Section 4. Section 23-2605, R.C.M. 1947, is amended to
15 read as follows:

16 "23-2605. Time of opening and closing of polls. (1)
17 Except as provided in subsection (2) ~~of this section~~:

18 (a) ~~The in precincts having 100 or more registered~~
19 ~~electors, the~~ polls must be opened at 8 a.m. on the morning
20 of election day, and must be kept open continuously until 8
21 p.m. of that day;

22 (b) ~~In~~ in precincts having less than ~~one hundred~~ (100)
23 registered electors, the polls must be opened at 1 p.m. and
24 closed at 8 p.m. of that day;

25 (c) ~~Whenever~~ whenever all registered electors in any

1 precinct have voted, the polls shall be closed immediately.

2 (2) If a special election is held by a county, city,
3 high school district, or school district on the question of
4 incurring an indebtedness or making a special or additional
5 levy for any purpose, the polls shall open at 12 noon and be
6 kept open continuously until 8 p.m. However, the poll hours
7 shall be as specified in subsection (1) ~~of this section~~ if
8 the election is held on the same day, at the same polling
9 places, and with the same judges and clerks as a general,
10 county, school, or city election."

11 Section 5. Section 23-2704, R.C.M. 1947, is amended to
12 read as follows:

13 "23-2704. Notice and closing of registration for
14 elections on incurring of state indebtedness ~~other than for~~
15 ~~refunding or levy of tax.~~ (1) If the question of state
16 indebtedness, issuance of bonds or debentures other than for
17 refunding, or the levy of a tax for state purposes, is
18 submitted at an election other than a general biennial
19 election, the registrar of each county shall publish in ~~the~~
20 ~~official county~~ a newspaper, of general circulation in the
21 county a notice signed by him, stating that registration
22 will close at noon on the ~~fortieth~~ (40th) day prior to the
23 date of the election unless the act providing for the
24 submission of the question fixes a different time for the
25 giving of notice. The notice shall be published ~~ten~~ (10)

1 days or more prior to the date when registration will be
2 closed unless the act providing for submission of the
3 question fixes a different time for closing registration.

4 (2) If the question is to be submitted at a general
5 biennial election, notice and the closing of registration
6 shall be governed by the laws applying to general biennial
7 elections. The provisions of ~~section 37-107, R.C.M. 1947~~
8 apply to the printing and distribution of copies of the
9 proposed law."

10 Section 6. Section 23-2802, R.C.M. 1947, is amended to
11 read as follows:

12 "23-2802. Publication and printing of amendments to
13 constitution. If a proposed constitutional amendment or
14 amendments are submitted to the people, the secretary of
15 state shall:

16 ~~(1) Have~~ have the proposed amendment or amendments
17 published in full twice each month for ~~two~~ (2) months
18 previous to the election at which they are to be voted upon
19 by the people in not less than one ~~(1)~~ newspaper ~~commonly~~
20 circulated of general circulation in each county.

21 ~~(2) Have a pamphlet printed containing an exact copy~~
22 ~~of the proposed amendment or amendments, an exact copy of~~
23 ~~existing constitutional provisions to be revised, and the~~
24 ~~amendment or amendments in the form in which it or they will~~
25 ~~be printed on the official ballot. The printed pamphlets~~

1 ~~shall be distributed as provided in section 37-107, R.C.M.~~
2 ~~1947."~~

3 Section 7. Section 23-2901, R.C.M. 1947, is amended to
4 read as follows:

5 "23-2901. Election proclamation by the
6 governor ~~contents~~. Sixty ~~(60)~~ days or more before a general
7 election, the governor shall issue an election proclamation
8 and transmit a copy to each board of county commissioners.
9 The proclamation shall contain:

10 (1) A ~~a~~ statement of the time of the election and the
11 offices to be filled;

12 (2) ~~An~~ an offer of rewards stating: "There is a reward
13 of ~~one hundred dollars~~ (\$100) for the arrest and conviction
14 of any person violating any of the provisions of ~~sections~~
15 ~~94-1401 through 94-1424, R.C.M. 1947~~ Title 23 or Title 37.
16 Rewards will be paid until the total amount expended reaches
17 the sum of ~~five thousand dollars~~ (\$5,000)."

18 Section 8. Section 23-3002, R.C.M. 1947, is amended to
19 read as follows:

20 "23-3002. County clerk as county registrar. (1) Each
21 county clerk and recorder is ex officio county registrar. Be
22 shall serve without extra pay or compensation.

23 ~~(a) Serve without extra pay or compensation;~~

24 ~~(b) Have custody of registration books, cards, and~~
25 ~~other records provided for by this act.~~

1 (2) The official register of electors is an official
2 record of the county clerk and recorder.

3 ~~(3) Unless otherwise provided, the county clerk and~~
4 ~~recorder shall have custody of registration books, cards,~~
5 ~~and other records required by the election laws of this~~
6 ~~state."~~

7 Section 9. Section 23-3003, R.C.M. 1947, is amended to
8 read as follows:

9 "23-3003. ~~Notaries public as deputy~~ Deputy registrars
10 ~~appointment of additional deputies qualifications~~
11 ~~duties.~~ (1) All notaries public are deputy registrars in the
12 county in which they reside. ~~They may register electors~~
13 ~~residing in any precinct within the county. No notary~~
14 ~~public may register any voter until he has been issued a~~
15 ~~certificate of approval by the county registrar certifying~~
16 ~~that he has received instructions on registration procedure~~
17 ~~from the county registrar.~~

18 (2) The commissioners shall appoint a minimum of two
19 ~~(2)~~ deputy registrars who are not notaries public, a minimum
20 of one ~~(1)~~ from each of the two ~~(2)~~ major political parties,
21 for each precinct in the county from lists of persons
22 recommended by the political parties. If the parties fail to
23 submit lists, the commissioners shall appoint deputy
24 registrars without recommendations from the parties. The
25 number of appointed deputy registrars for each county shall

1 always be equally divided between the two ~~(2)~~ major
2 political parties. * An appointed deputy registrar shall

3 ~~(a) Be~~ be a qualified resident elector in the precinct
4 for which he is appointed.

5 ~~(b) Register electors residing in any precinct in the~~
6 ~~county.~~

7 ~~(c) No duly appointed deputy registrar shall register~~
8 ~~any voter until such deputy registrar shall have been issued~~
9 ~~a certificate of approval by the county registrar,~~
10 ~~certifying that said deputy registrar has received~~
11 ~~instructions on registration procedure from the county~~
12 ~~registrar.~~

13 (3) No deputy registrar may register a voter until
14 that deputy registrar has been issued a certificate of
15 approval by the county registrar certifying that the deputy
16 registrar has received instructions on registration
17 procedure from the county registrar.

18 (4) A deputy registrar who has been issued the
19 certificate required by subsection (3) may register electors
20 residing in any precinct of the county for which he is a
21 deputy registrar.

22 ~~(3)~~ (5) Within ~~three~~ ~~(3)~~ days after a registration card
23 is filled out, deputy registrars shall forward the card to
24 the registrar. Registration cards properly executed prior to
25 the registration deadline shall be accepted by the registrar

1 for ~~three~~ {3} days after the deadline."

2 Section 10. Section 23-3014, R.C.M. 1947, is amended
3 to read as follows:

4 "23-3014. Cancellation of ~~registry~~ registration for
5 other reasons—~~reregistration~~. (1) The registrar shall
6 cancel any registration card:

7 (a) ~~At~~ at the written request of the person
8 registered;

9 (b) ~~When~~ if a certificate of the death of any elector
10 is filed or if an elector is reported as deceased by the
11 department of health and environmental sciences in the
12 department's reports submitted to the county under 91-4458;

13 (c) Within whenever forty-five {45} days or more prior
14 to the closing of registration, three {3} qualified
15 registered electors residing within the precinct ~~may~~
16 challenge an elector by filing affidavits giving the name of
17 the challenged elector, his registry number, his residence,
18 and stating of the personal knowledge of the affiant the
19 person registered does not reside at the place designated on
20 his registration card;

21 (d) ~~When~~ whenever the insanity of the elector is
22 legally established;

23 (e) ~~If whenever a certified copy of a final judgment~~
24 ~~of conviction of any elector of a felony is filed; or~~
25 WHENEVER THE INCARCERATION OF AN ELECTOR IN A PENAL

1 INSTITUTION FOR A FELONY CONVICTION IS LEGALLY ESTABLISHED:

2 OR

3 (f) ~~If~~ whenever a certified copy of a court order
4 directing the cancellation is filed with the registrar.

5 (2) Within ~~thirty~~ {30} days after registration has
6 been canceled, the registrar shall send written notice to
7 the elector at the address shown on the registration card.
8 If a person proves to the registrar that he is qualified, he
9 may reregister.

10 ~~{3} At the close of registration, the court clerk of~~
11 ~~each county shall send a list of those electors whose~~
12 ~~registrations have been cancelled due to a felony conviction~~
13 ~~to the secretary of state. The secretary of state shall~~
14 ~~compile a list of all such electors and send a copy of the~~
15 ~~list to each registrar."~~

16 Section 11. Section 23-3015, R.C.M. 1947, is amended
17 to read as follows:

18 "23-3015. Challenges prior to election ~~—registrar's~~
19 ~~duties—challenges on election day—election judges' duties.~~

20 (1) An elector may challenge the qualifications of another
21 elector any time not later than ~~twenty~~ {20} days prior to an
22 election. The challenge must:

23 (a) ~~Be~~ be filed with the registrar and be signed by
24 the elector;

25 (b) ~~Be~~ be verified by the affidavit of the elector

1 that the elector designated is not entitled to vote;

2 (c) ~~State~~ state the grounds of the challenge,

3 objection, and disqualification.

4 ~~(d) Notify the elector within five (5) days by~~

5 ~~registered United States mail that his qualifications as an~~

6 ~~elector have been challenged.~~

7 (2) The registrar shall:

8 (a) ~~File~~ file the affidavit of challenge in his

9 office;

10 (b) ~~Deliver~~ deliver a correct copy of the affidavit to

11 the judges of election together with a copy of the precinct

12 registers, check lists, and other documents;

13 (c) ~~Write~~ write opposite the name of any person whose

14 qualifications are challenged the words, "to be

15 challenged";

16 ~~(d) notify the elector within 5 days by certified or~~

17 ~~registered mail that his qualifications as an elector have~~

18 ~~been challenged.~~

19 (3) An elector's right to vote may also be challenged

20 on election day by any registered elector by orally stating

21 to the election judges the grounds of the challenge.

22 (4) The election judges shall:

23 (a) ~~Test~~ test the qualifications of the elector

24 challenged under oath if he applies to vote;

25 (b) ~~Compare~~ compare the answers of the elector with

1 the entries in the precinct register books; and

2 (c) ~~Not~~ not permit him to vote if the elector is found

3 to be disqualified because the answers given do not

4 correspond to the entry in the precinct registers, or the

5 elector is disqualified for any cause under the law, or he

6 refuses to take an oath or affirmation as to his

7 qualifications.

8 (5) The election judges may require the challenged

9 elector to produce one ~~(4)~~ or more ~~elector~~ electors of the

10 county to be examined under oath as to the qualifications of

11 the challenged elector, and may also request assistance from

12 the county attorney and the registrar in determining the

13 elector's qualifications."

14 Section 12. Section 23-3018, R.C.M. 1947, is amended

15 to read as follows:

16 "23-3018. Name on precinct register prima facie

17 evidence of right to vote ~~elector's identity election~~

18 ~~judges' duties as to precinct register.~~ (1) A person shall

19 may not vote at an election mentioned in ~~this act~~ Title 23

20 or Title 37 unless his name appears on election day in the

21 copy of the official precinct register furnished by the

22 registrar to the election judges. The fact that his name

23 appears in the copy of the precinct register is prima facie

24 evidence of his right to vote.

25 (2) If the election judges have good reason to

1 believe, or if they are informed by a qualified elector that
 2 the person offering to vote is not the person registered in
 3 that name, he shall may not be allowed to vote until he has
 4 proved his identity by the oath of two ~~(2)~~ reputable
 5 electors of the precinct in which he is registered.

6 ~~(3) The election judges in each precinct at every~~
 7 ~~general or special election in a precinct register certified~~
 8 ~~to them by the registrar shall:~~

9 ~~(a) Mark a cross (X) upon the line opposite the name~~
 10 ~~of the elector;~~

11 ~~(b) Require the elector to sign his name upon one of~~
 12 ~~the precinct registers;~~

13 ~~(c) Require an elector, who is not able to sign his~~
 14 ~~name, to produce two (2) electors who shall make an~~
 15 ~~affidavit before the election judges in a form prescribed by~~
 16 ~~the secretary of state. One of the election judges shall~~
 17 ~~write on the affidavit the elector's name, note his~~
 18 ~~inability to sign, and the names of the electors making~~
 19 ~~affidavits. The affidavits shall be returned to the~~
 20 ~~registrar with the other election records."~~

21 Section 13. Section 23-3026, R.C.M. 1947, is amended
 22 to read as follows:

23 "23-3026. Commissioners to provide registrar with
 24 sufficient help. The commissioners shall provide the
 25 registrar with sufficient help for the duties imposed by

1 ~~this act Title 23 or Title 37.~~ The cost of stationery,
 2 printing, publishing, and posting ~~are~~ is a proper charge
 3 against the county."

4 Section 14. Section 23-3304, R.C.M. 1947, is amended
 5 to read as follows:

6 "23-3304. Declaration of nomination ~~filing fees~~
 7 ~~printing of victorious write-in candidates on general~~
 8 ~~election ballot.~~ (1) Each candidate in the primary election,
 9 shall send a declaration of nomination to the secretary of
 10 state, registrar, or city clerk. Each candidate for
 11 governor must send a joint declaration of nomination with a
 12 candidate for lieutenant governor.

13 (2) Each candidate must sign the declaration and send
 14 with it the required filing fee, or in the case of a
 15 candidate who cannot afford the filing fee, send with it the
 16 documents required in lieu of a filing fee. The declaration
 17 of nomination shall be acknowledged by a notary public if
 18 sent by mail, or by the officer of the office at which the
 19 filing is made.

20 (3) The declaration, when filed, is conclusive
 21 evidence that the elector is a candidate for nomination by
 22 his party.

23 (4) Nominating declarations are filed:

24 (a) ~~is~~ in the office of secretary of state for
 25 congressional offices, state or district offices to be voted

1 for in more than one ~~4~~ county, members of the legislative
2 assembly legislature, and judges of the district court;

3 (b) ~~In~~ in the office of the registrar for county and
4 district offices to be voted for in only one ~~4~~ county
5 only, other than A LEGISLATOR OR A judge of the district
6 court, and for ~~township and~~ precinct offices;

7 (c) ~~In~~ in the office of the city clerk for all city
8 officers.

9 (5) Filing fees are as follows:

10 (a) ~~For~~ for offices having a an annual salary of ~~one~~
11 ~~thousand dollars~~ ~~(\$1,000)~~ or less ~~per annum, ten dollars~~
12 ~~(\$10)~~, except candidates for the legislature must pay
13 ~~fifteen dollars~~ ~~(\$15)~~;

14 (b) ~~For~~ for offices having a an annual salary of more
15 than ~~one thousand dollars~~ ~~(\$1,000)~~ ~~per annum, one per cent~~
16 ~~(1%)~~ of the total annual salary;

17 (c) ~~For~~ for the ~~offices~~ office of county
18 commissioner;

19 (i) in counties of the first class, ~~forty dollars~~
20 ~~(\$40)~~;

21 (ii) in counties of the second class, ~~thirty-five~~
22 ~~dollars~~ ~~(\$35)~~;

23 (iii) in counties of the third class, ~~thirty dollars~~
24 ~~(\$30)~~;

25 (iv) in counties of the fourth class, ~~twenty-five~~

1 ~~dollars~~ ~~(\$25)~~;

2 (v) in counties of other classes, ~~ten dollars~~ ~~(\$10)~~;

3 (d) ~~For~~ for offices in which compensation is paid in
4 fees, ~~five dollars~~ ~~(\$5)~~;

5 (e) ~~For~~ for state, county, and precinct committeemen,
6 delegates to national conventions, and presidential
7 electors, no fees are required.

8 (6) A person nominated by having his name written in
9 on the primary ballot and desiring to accept the nomination
10 shall may not have his name printed on the general election
11 ballot unless he:

12 (a) ~~files~~ files with the secretary of state,
13 registrar, or city clerk, within at least ~~ten~~ ~~(10)~~ days
14 after the primary a written declaration indicating his
15 acceptance of the nomination;

16 (b) ~~Pays~~ pays the required filing fee or if indigent,
17 complies with subsection (7);

18 (c) ~~Received~~ received at least ~~five per cent~~ ~~(5%)~~ of
19 the votes cast for the office at the last preceding general
20 election.

21 (7) ~~Indigent candidates.~~ If a person is unable to pay
22 a filing fee, the filing officer shall accept the following
23 documents in lieu of a filing fee:

24 (a) from a write-in candidate, a verified statement
25 that he is unable to pay the filing fee;

(b) from a candidate for nomination, a verified statement that he is unable to pay the filing fee and a written petition for nomination as a candidate that meets the following requirements:

(i) contains the name of the office to be filled, the candidate's name, residence, occupation, and business address;

(ii) is signed by ~~five percent~~ {5%} or more of the total vote cast for the successful candidate for the same office at the next preceding general election; and

(iii) is signed by electors residing within the political division of the state in which the candidate petitions for nomination.

(6) The declaration for nomination shall be in the form and contain the information prescribed by the secretary of state. Every declaration must be signed by the elector seeking nomination."

Section 15. Section 23-3305, R.C.B. 1947, is amended to read as follows:

"23-3305. Deadline for filing nominating declarations ~~persons with whom~~ filed. Nominating declarations shall be filed not later than 5 p.m., ~~forty~~ {40} days before the date of the primary election. ~~Declarations for nomination to an office filled by election throughout the state, as judge of a district court, to an office filled by election in more~~

~~than one (1) county, or as a member of the legislative assembly shall be filed with the secretary of state. Declarations for nomination to an office filled by election in one (1) county, or district or city shall be filed with the registrar or city clerk."~~

Section 16. Section 23-3306, R.C.B. 1947, is amended to read as follows:

"23-3306. ~~Ballots, how arranged and voted~~ Arrangement of ballots. (1) At the primary, there shall be a ballot for each political party entitled to participate. Each ballot shall be printed on a separate sheet of white paper of the same size, folded, and securely fastened at the top.

(2) Candidates' names shall be arranged alphabetically by surname, under the offices and under the proper party designation. The names of the candidates for governor and lieutenant governor shall be arranged by the surname of the candidate for governor. When two {2} or more persons are candidates for nomination for the same office, the registrar shall divide the ballot to provide a rotation of the names of the candidates as follows:

(a) ~~Divide~~ divide all county ballot forms into sets equal in number to the greatest number of candidates for nomination or election to any office;

(b) ~~Arrange~~ arrange the sets so that candidates' names are rotated by removing one name from the top of the list

1 for each nomination or office and place the name or number
2 at the bottom of the list for each successive set of ballot
3 forms; however, in printing ballots for use in any one ~~(4)~~
4 precinct, only one ~~(4)~~ set shall be used and they shall be
5 identical~~+~~.

6 ~~(e)~~ (3) If an elector writes the name of a person upon
7 a ballot, and the person's name appears as a candidate upon
8 another ballot, the ballot shall count for the person only
9 as a candidate of the party upon whose ticket his name is
10 written~~+~~.

11 ~~(d)~~ (4) If a person is nominated upon more than one ~~(4)~~
12 ticket, not later than ~~ten~~ ~~(10)~~ days after the election he
13 shall file written notification with the secretary of state,
14 registrar, or city clerk of the party under which his name
15 is to appear upon the ballot for the general election, and,
16 if he fails to notify the proper officers, his name shall
17 appear under the party with whom his nominating declaration
18 was first filed~~+~~.

19 ~~(e)~~ (5) If a person fails to be nominated upon the
20 party ticket contained in his nominating declaration, his
21 name shall not be printed upon any ballot with party
22 designation~~+~~.

23 ~~(f)~~ (6) ~~This act does Title 23 and Title 37 do~~ not
24 preclude an elector from having his name printed upon the
25 ballot as an independent candidate, and no candidate shall

1 may have his name printed on more than one ~~(4)~~ ticket.

2 ~~(3)~~ (7) Ballots shall be printed on white paper in the
3 form of the Australian ballot, and the candidates of each
4 party shall be printed on a separate ticket.

5 ~~(4)~~ (8) After preparing his ballot, the elector shall
6 detach it from the remaining tickets and fold it so that the
7 face is concealed and the official stamp is seen~~+~~.

8 ~~(a)~~ (9) The elector shall fold the remaining tickets,
9 vote the marked ballot without leaving the polling place,
10 and deposit the remaining tickets in a separate box marked
11 as the blank ballot box~~+~~.

12 ~~(b)~~ (10) Immediately after the recount period, ~~the~~
13 ~~election judges shall, without examination, destroy as~~
14 ~~provided in 23-4103, the tickets deposited in the blank~~
15 ballot box shall be destroyed."

16 Section 17. Section 23-3311, R.C.B. 1947, is amended
17 to read as follows:

18 "23-3311. Tally sheets -- keeping and announcing the
19 tally ~~---statement.~~ (1) The registrar shall furnish tally
20 sheets for each political party having candidates in the
21 primary election for each voting precinct. Tally sheets
22 shall contain the names of the candidates, names of the
23 political parties designated at the head, and be numbered in
24 the order in which the names appear on the official ballot.

25 (2) Tally sheets shall show:

1 (a) ~~The~~ the number and name of each person voted for;

2 (b) ~~Office~~ the office for nomination to which each

3 person was voted for;

4 (c) ~~Total~~ the total number of votes cast for each

5 candidate for nomination.

6 (3) The election clerks and judges shall audibly

7 announce the tally or count, and shall keep the tally in the

8 form prescribed by the secretary of state. The tally or

9 count shall be certified by the election clerks and judges.

10 (4) The election clerks shall in ink:

11 (a) ~~Keep~~ keep tally upon the prescribed tally sheet of

12 each political party;

13 (b) ~~Total~~ total the number of tallies and write the

14 total immediately to the right of the last tallies for each

15 candidate and also in the columns headed "total vote";

16 (c) ~~Prepare~~ prepare the certificate required by

17 subsection (3) ~~of this section~~;

18 (d) ~~Immediately~~ immediately upon completion of the

19 count, sign the tally sheets, and each clerk shall certify

20 which sheets were kept by him~~s~~.

21 ~~(e) (5)~~ If the ~~chairman~~ and judges are satisfied with

22 the correctness of the tally sheets, they shall sign all the

23 tally sheets.

24 ~~(5) (6)~~ The election clerks shall then prepare a

25 statement of that portion of the tally sheets showing the

1 number and name and political party of each candidate for

2 nomination and the office and total votes received by each

3 in the precinct, and shall prepare the certificate. The

4 election clerks and judges who complete the count shall sign

5 the statement and immediately post it in a conspicuous place

6 outside of the polls. The statement shall remain posted for

7 ~~ten~~ (10) days."

8 Section 18. Section 23-3312, R.C.M. 1947, is amended

9 to read as follows:

10 "23-3312. Duties of election clerks and judges after

11 canvassing votes — seal. (1) Immediately after canvassing

12 votes, the election clerks and judges who complete the count

13 shall enclose the pollbooks in separate envelopes and

14 securely seal them. The election clerks and judges shall:

15 (a) ~~Enclose~~ enclose the tally sheets in separate

16 envelopes and securely seal them;

17 (b) ~~Enclose~~ enclose the precinct registers in separate

18 envelopes and securely seal them;

19 (c) ~~Enclose~~ enclose all ballots fastened together and

20 in separate envelopes and securely seal them;

21 (d) ~~Specify~~ specify in ink the contents, and address

22 each package to the registrar of the county in which the

23 election precinct is situated;

24 (e) ~~Mark~~ mark the sealed ballot packages or the

25 outside showing what numbers are contained, but once sealed

1 they are may not ~~to~~ be opened until ordered by the proper
2 court.

3 (2) When the count is completed, the sealed ballots
4 shall be placed in two ~~(2)~~ ballot boxes, the boxes locked
5 and the seal of the board pasted over the keyhole and rim of
6 the lid so that to open the box the seal must be broken. The
7 registrar or ~~the canvassers~~ those persons making the
8 abstracts of the votes shall may not break the seal, nor
9 shall may anyone break the seal except upon court order in
10 case of contest or on order of the commissioners when the
11 boxes are needed for the ensuing election."

12 Section 19. Section 23-3313, R.C.M. 1947, is amended
13 to read as follows:

14 "23-3313. Abstracts of votes, ~~--- when and how made ---~~
15 ~~decision by lot in event of tie certificate for~~
16 ~~compensation --- highest number of votes nominates.~~ (1) At 8
17 a.m. on the third day after the close of any primary
18 election, or at 8 a.m. on a day sooner if all the returns
19 are in, the registrar, taking two ~~(2)~~ assistants who are
20 justices of the peace, county commissioners, or either,
21 shall open the returns and make abstracts of the votes.

22 (2) Abstracts of votes for nomination of each party
23 for ~~governor, lieutenant governor, secretary of state,~~
24 ~~attorney general, state auditor, superintendent of public~~
25 ~~instruction, public service commissioners, clerk of the~~

1 ~~supreme court, state treasurer, justices of the supreme~~
2 ~~court, United States senators, United States~~
3 ~~representatives, judges of the district court, and members~~
4 ~~of the legislative assembly, congressional offices, state or~~
5 ~~district offices to be voted on in more than one county,~~
6 ~~members of the legislature, and judges of the district court~~
7 shall be on one ~~(4)~~ sheet, separately for each political
8 party, ~~and shall be forthwith transmitted to the secretary~~
9 ~~of state, as required by section 23-3314. The registrar,~~
10 ~~immediately after making the abstracts of votes, shall send~~
11 ~~by mail a copy of each of the abstracts to the secretary of~~
12 ~~state.~~

13 (3) Abstracts of votes for county and district offices
14 to be voted on in only one county, other than a LEGISLATOR
15 OR a judge of the district court, and precinct offices shall
16 be placed on separate sheets for each political party, and
17 the registrar shall certify the nomination for each party
18 and enter upon his register of nominations the name of each
19 of the persons having the highest number of votes for
20 nomination. He shall notify each person who is nominated by
21 mail.

22 (4) If there is a tie for the same nomination in one
23 ~~(4)~~ party, the registrar shall notify the affected persons
24 to come to his office at a time set by the registrar. The
25 registrar shall then decide publicly by lot which of the

1 persons is the nominee. The registrar shall enter the name
2 of the person chosen as nominee upon his register of
3 nominations.

4 (5) The registrar shall, on receipt of the primary
5 returns, make out a certificate stating the compensation the
6 election clerks and judges are entitled to and transmit this
7 certificate to the commissioners. The commissioners shall
8 order the compensation paid out of the county treasury.

9 (6) In all primary elections, the person having the
10 highest number of votes for nomination to any office is the
11 nominee for his political party for that office."

12 Section 20. Section 23-3314, R.C.M. 1947, is amended
13 to read as follows:

14 "23-3314. ~~Copy of abstracts to be sent secretary of~~
15 ~~state canvass~~ Canvass by secretary of state -- governor's
16 certificate of nomination and proclamation -- decided by
17 lot in event of tie. ~~(1) The registrar, immediately after~~
18 ~~making the abstracts of votes, shall send a copy of each of~~
19 ~~the abstracts by mail to the secretary of state.~~

20 ~~(2) (1)~~ (1) The secretary of state shall, in the presence
21 of the governor and the ~~state treasurer~~ superintendent of
22 public instruction, proceed not later than ~~fifteen~~ (15) days
23 after the date of the primary election to canvass the votes
24 given for nomination for ~~governor and lieutenant governor,~~
25 ~~United States senator, United States representative,~~

1 ~~attorney general, superintendent of public instruction,~~
2 ~~public service commissioners, secretary of state, state~~
3 ~~treasurer, state auditor, justices of the supreme court,~~
4 ~~clerk of the supreme court, judges of the district court,~~
5 ~~members of the legislative assembly, and all other officers~~
6 ~~voted in any district comprising more than one county~~
7 congressional offices, state or district offices to be voted
8 on in more than one county, members of the legislature, and
9 judges of the district court.

10 ~~(2) (2)~~ (2) The governor shall grant a certificate of
11 nomination to the person having the highest number of votes
12 for each office, and shall issue a proclamation declaring
13 the nomination of each person by his party.

14 ~~(4) (3)~~ (3) When a tie exists between two ~~(2)~~ or more
15 persons for nomination in the same party, the secretary of
16 state shall immediately give notice to the persons tied, to
17 attend in person or by attorney, at his office at a time
18 appointed by him. He shall then publicly decide by lot which
19 person is nominated by his party. The governor shall issue
20 his proclamation declaring the nomination of that person."

21 Section 21. Section 23-4016, R.C.M. 1947, is amended
22 to read as follows:

23 "23-4016. ~~State canvassers, composition~~ Composition
24 and meeting of board of state canvassers. Within ~~twenty~~ (20)
25 days after the election, or sooner if the returns are all

1 received, the state auditor, ~~state treasurer~~ superintendent
 2 of public instruction, and attorney general shall meet as a
 3 board of state canvassers in the office of the secretary of
 4 state and determine the vote. The secretary of state, who is
 5 secretary of the board, shall make out and file in his
 6 office a statement of the canvass and transmit a copy to the
 7 governor."

8 Section 22. Section 23-3315, R.C.S. 1947, is amended
 9 to read as follows:

10 "23-3315. Error in ballot or other wrongful or
 11 neglectful act. (1) ~~Whenever~~ The court shall order an
 12 officer or person charged with a wrongful act or neglect to
 13 perform his duties or show cause why the order should not
 14 issue whenever it appears by affidavit to the district
 15 court, to the supreme court, or to a supreme court judge:

16 (a) ~~That that~~ that an error or omission has occurred, or is
 17 about to occur, in the printing of the name of any candidate
 18 or other matter on the official primary nominating election
 19 ballots;

20 (b) ~~That that~~ that any error has been, or is about to be,
 21 committed in the printing of the ballots;

22 (c) ~~That that~~ that the name of any person or any other
 23 matter has been, or is about to be, wrongfully placed upon
 24 the ballots;

25 (d) ~~That that~~ that any wrongful act has been performed by

1 any judge or clerk of the primary election, registrar,
 2 canvassing board or member, or by any person charged with a
 3 duty under ~~this act~~, Title 23 or Title 37 or that any
 4 neglect of duty by any of the persons has occurred or is
 5 about to occur, ~~the court shall require by order the officer~~
 6 ~~or person charged with the act or neglect to perform his~~
 7 ~~duties required by law or show cause why the order should~~
 8 ~~not issue.~~

9 (2) Failure to obey the court order is contempt.

10 (3) Any person aggrieved by the refusal or failure of
 11 any person to perform any duty required by ~~this act~~ shall
 12 Title 23 or Title 37, without derogation of any other right
 13 or remedy, be is entitled to seek a writ of mandamus in the
 14 district court and the proceeding shall be immediately heard
 15 and decided."

16 Section 23. Section 23-3316, R.C.S. 1947, is amended
 17 to read as follows:

18 "23-3316. Contest — notice — hearing — how tried
 19 and decided — certificate. (1) Five ~~(5)~~ days or less after
 20 a person has been nominated, any person wishing to contest
 21 the nomination to any state, county, district, ~~township~~,
 22 precinct, or city office shall give notice in writing to the
 23 person whose nomination he intends to contest briefly
 24 stating the cause for the contest.

25 (2) The contestant shall make application to the

1 district court judge in the county where the contest is to
2 be had. The judge shall then set the time for the hearing.

3 (3) The contestant shall serve notice ~~three--(3)~~ days
4 before the hearing is scheduled. The notice shall state the
5 time and place of the hearing.

6 (4) The judge of the district court shall hear and
7 determine the case and make all necessary orders for the
8 trial of the case and carrying his judgment into effect. The
9 order of the judge shall express the will of a majority of
10 the legal voters of the political party, as indicated by
11 their votes, disregarding technicalities or errors in
12 spelling.

13 (5) Each party is entitled to subpoenas.

14 (6) The registrar shall issue a certificate to the
15 person declared nominated by the court. The certificate
16 shall be conclusive evidence of the right of the person to
17 hold the nomination."

18 Section 24. Section 23-3319, R.C.M. 1947, is amended
19 to read as follows:

20 "23-3319. Certificates of nominations to be preserved
21 -- certification of candidates' names and descriptions --
22 statement of votes received by candidate. (1) The secretary
23 of state, registrars, and city clerks shall preserve all
24 certificates of nominations for ~~one--(1)~~ year. All
25 certificates shall be open to public inspection under rules

1 adopted by the various offices.

2 (2) Forty-five ~~(45)~~ days or more before an election,
3 the secretary of state shall certify to the registrars the
4 name and description of each person nominated, as specified
5 in the certificates of nomination filed with him.

6 ~~(3) Each election board shall transmit to the~~
7 ~~secretary of state a statement of the number of votes cast~~
8 ~~for a person as the candidate for the independent body by~~
9 ~~which he was nominated."~~

10 Section 25. Section 23-3403, R.C.M. 1947, is amended
11 to read as follows:

12 "23-3403. ~~Committees' powers state central committee~~
13 ~~to appoint county central committee where none exists powers~~
14 ~~of county and city central committees -- role of state~~
15 ~~central committee where no county central committee exists.~~

16 (1) The county and city central committee may:

17 (a) ~~Make~~ make rules for the government of its
18 political party in each county, not inconsistent with any of
19 the provisions of ~~this act or~~ the election laws of this
20 state or the rules of its state political party;

21 (b) ~~Elect~~ elect two ~~(2)~~ county members of the state
22 central committee, one ~~(1)~~ of whom shall be a man and one
23 ~~(1)~~ of whom shall be a woman, ~~elect the members of the~~
24 congressional committee, and fill all vacancies and make
25 rules in their jurisdiction.

1 (2) If there is no county central committee, the state
2 central committee shall appoint a county central committee."

3 Section 26. Section 23-3405, R.C.M. 1947, is amended
4 to read as follows:

5 "23-3405. Organization of committee — meeting --
6 county convention to elect delegates and alternates to state
7 convention. (1) The committee shall meet prior to the state
8 convention of its political party and organize by electing a
9 chairman and one ~~4~~ or more vice-chairmen. The chairman or
10 first vice-chairman shall be a woman. ~~They~~ The committee
11 shall elect a secretary and other officers as are proper. It
12 is not necessary for the officers to be precinct
13 committeemen.

14 (2) The committee may select managing or executive
15 committees and authorize subcommittees to exercise ~~any~~ and
16 all powers conferred upon the county, city, state, and
17 congressional central committees by ~~this act~~ the election
18 laws of this state.

19 (3) The chairman of the county central committee shall
20 call the central committee meeting and not less than ~~four~~
21 ~~4~~ days before the date of the central committee meeting
22 shall publish the call in a newspaper published at the
23 county seat and mail a copy of the call to each precinct
24 committeeman. If party rules permit the use of a proxy, no
25 proxy ~~shall~~ may be recognized unless held by an elector of

1 the precinct of the committeeman executing it.

2 (4) The county chairman of the party shall preside at
3 the county convention. No person other than a duly elected
4 or appointed committeeman or officer of the committee is
5 entitled to participate in the proceedings of the committee.

6 (5) If a committeeman is absent, the convention may
7 fill the vacancy by appointing some qualified elector of the
8 party, resident in the precinct, to represent the precinct
9 in the convention.

10 (6) The county convention shall elect delegates and
11 alternate delegates to the state convention under rules of
12 the state party. The chairman and secretary of the county
13 convention shall issue and sign certificates of election of
14 the delegates."

15 Section 27. Section 23-3506, R.C.M. 1947, is amended
16 to read as follows:

17 "23-3506. Registrar to provide printed ballots —
18 ~~marking by electors~~ — other ballots ineffective. Except as
19 otherwise provided in ~~this act~~ the election laws of this
20 state:

21 (1) ~~The~~ the registrar shall provide printed ballots
22 for every election for public officers. He shall print on
23 the ballot the names of all candidates, including candidates
24 for chief justice and ~~associate~~ justices of the supreme
25 court, and judges of the district courts;

1 ~~(2) An elector may write or paste on his ballot the~~
 2 ~~name of any person for whom he desires to vote for any~~
 3 ~~office, but must mark it as provided in section 23-3606.~~
 4 ~~When the ballot is marked in this manner it must be counted~~
 5 ~~the same as though the name is printed upon the ballot and~~
 6 ~~marked by the voter.~~

7 ~~(3)~~ (2) Ballots ballots other than those printed by the
 8 registrars may not be cast or counted in any election."

9 Section 28. Section 23-3512, R.C.M. 1947, is amended
 10 to read as follows:

11 "23-3512. Columns and material to be printed on
 12 ballot. (1) Each ballot shall contain three ~~(3)~~ categories
 13 with at least one ~~(1)~~ column for each category.

14 (2) At the head of the first column to the left shall
 15 be the words, "STATE AND NATIONAL," in boldface type,
 16 followed by a list of all candidates for state and national
 17 offices, including supreme court justices, district court
 18 judges, and members of the ~~legislative assembly~~ legislature,
 19 and the list shall progressively continue to the top of the
 20 second column.

21 (3) Next shall be the words ~~"COUNTY AND TOWNSHIP,"~~
 22 word "COUNTY" in large boldface type and beneath the heading
 23 all candidates for county ~~and township~~ offices. The list
 24 shall progressively continue on to the top of the third
 25 column.

1 (4) Next shall be the words "INITIATIVES, REFERENDUMS,
 2 AND CONSTITUTIONAL AMENDMENTS," in boldface type, and listed
 3 thereunder shall be all proposed constitutional amendments
 4 and measures to be voted which do not involve the creation
 5 of any state levy, debt, or liability. If there are no such
 6 measures, this heading shall be eliminated.

7 (5) Following each except the last column, the words
 8 "VOTE IN THE NEXT COLUMN" shall appear.

9 (6) All measures involving the creation of a state
 10 levy, debt, or liability shall be submitted to the voters
 11 upon a separate official ballot.

12 (7) Each ballot shall be printed so that all the
 13 matters printed are equally apportioned among the three ~~(3)~~
 14 ~~categories~~ ~~columns~~ CATEGORIES as nearly as possible."

15 Section 29. Section 23-3513, R.C.M. 1947, is amended
 16 to read as follows:

17 "23-3513. Order of placement. (1) The order of offices
 18 on the ballot in the first column designated "STATE AND
 19 NATIONAL," shall be as follows:

20 (a) If the election is in a year in which a president
 21 of the United States is to be elected, in spaces separated
 22 from the balance of the party tickets by a heavy black line,
 23 shall be the names and spaces for voting for candidates for
 24 president and vice-president. The names of candidates for
 25 president and vice-president for each political party shall

1 be grouped together.

2 (b) United States senator;

3 (c) United States representative;

4 (d) Governor and lieutenant governor;

5 (e) Secretary of state;

6 (f) Attorney general;

7 ~~(g) State treasurer;~~

8 ~~(h) State auditor;~~

9 ~~(i) Public service commissioners;~~

10 ~~(j) State superintendent of public instruction;~~

11 ~~(k) Clerk of the supreme court;~~

12 ~~(l) Chief justice of the supreme court;~~

13 ~~(m) Associate--justices Justices of the supreme~~

14 court;

15 ~~(n) District court judges;~~

16 ~~(o) State senators;~~

17 ~~(p) members Members of the house of representatives.~~

18 (2) If any offices are not to be elected, they shall

19 not be designated but the order of offices to be filled

20 shall maintain their relative positions.

21 ~~(3) In the column designated, "COUNTY AND~~

22 ~~TOWNSHIP," the following order of placement shall be~~

23 observed:

24 (a) ~~Clerk clerk~~ of the district court;

25 (b) ~~County county~~ commissioner;

1 (c) ~~County county~~ clerk and recorder;

2 (d) ~~Sheriff sheriff~~;

3 (e) ~~County county~~ attorney;

4 (f) ~~County county~~ auditor;

5 (g) ~~Other other~~ offices in the order designated by the

6 registrar.

7 ~~(4) In the third column constitutional amendments~~

8 shall be followed by referendum and initiative measures."

9 Section 30. Section 23-3515, R.C.M. 1947, is amended

10 to read as follows:

11 "23-3515. Stub, size and contents. (1) The ballot

12 shall be printed on the same leaf with a stub, and separated

13 by a ~~perforated stub perforation~~.

14 (2) The stub shall extend the entire width of the

15 ballot, and have instructions printed on it.

16 (3) Upon the face of the stub shall be printed, in

17 type called brevier capitals, the following:

18 (a) "This ballot should be marked with an 'X' in the

19 square before the ~~name name~~ of each person or candidate for

20 whom the elector intends to vote. The elector may write in

21 blank spaces, or paste over another name, the name of a

22 person for whom he wishes to vote, and vote by marking an

23 'X' in the square before the name."

24 (b) "If a ballot contains a constitutional amendment,

25 or other question to be submitted to a vote of the people,

1 it is voted on by marking an 'X' in the square before the
2 amendment or question."

3 (4) On the front of the stub shall be printed or
4 stamped, by the registrar or other officer, the consecutive
5 number of the ballot, beginning with number ~~one--(1)~~ and
6 increasing in regular numerical order to the total number of
7 ballots required for the precinct."

8 Section 31. Section 23-3606, R.C.M. 1947, is amended
9 to read as follows:

10 "23-3606. Method of voting. (1) On receipt of his
11 ballot, the elector must immediately retire to one of the
12 booths and prepare his ballot.

13 (2) He shall prepare his ballot by marking an "x" in
14 the square before the name of the person or persons for whom
15 he intends to vote.

16 (3) If the ballot contains a constitutional amendment,
17 or other question to be submitted to the vote of the people,
18 he shall mark an "x" in the applicable square indicating his
19 vote either for or against the amendment or question.

20 (4) The elector may write in the blank spaces, or
21 paste over any other name, the name of any person for whom
22 he wishes to vote, and may vote for that person by marking
23 an "x" before the name. When the ballot is marked in this
24 manner, it must be counted the same as though the name is
25 printed upon the ballot and marked by the voter.

1 (5) After preparing his ballot the elector must fold
2 it so the face of the ballot will be concealed and the
3 endorsements may be seen, and hand it to the election judges
4 who shall announce the name of the elector and the printed
5 or stamped number on the stub in a loud tone of voice. The
6 judge must announce the voter's name and record the name in
7 the pollbook. If the voting is in a city, the voter's
8 residence shall also be announced and recorded in the
9 pollbook.

10 (6) If the elector is entitled to vote, and if the
11 printed or stamped number is the same as that entered on the
12 pollbooks as the number on the stub, the judge shall receive
13 the ballot, and remove the stub in sight of the elector,
14 depositing each ballot in the ballot box and each stub in a
15 box for detached ballot stubs.

16 (7) Any elector who spoils his ballot may, on
17 returning the spoiled ballot, receive another in place of
18 it."

19 Section 32. Section 23-3610, R.C.M. 1947, is amended
20 to read as follows:

21 "23-3610. Marking precinct register book before
22 elector votes -- procedure. (1) The election judges at every
23 primary, general, or special election shall, in the precinct
24 register book, mark a cross (X) upon the line opposite to
25 the name of the elector.

1 (2) Before an elector is permitted to vote, the
2 election judges shall require the elector to sign his name
3 on the place designated in the precinct register.

4 (3) The election judges shall require an elector not
5 able to sign his name to produce two ~~(2)~~ electors who shall
6 make an affidavit before one or more of the election judges,
7 ~~or one (1) of them~~, in a form prescribed by the secretary of
8 state.

9 (4) The affidavit shall be filed by the election
10 judges, and returned to the registrar with the returns of
11 the election. One ~~(1)~~ of the judges shall write the
12 elector's name, note noting the fact of his inability to
13 sign, and the names of the two ~~(2)~~ electors.

14 (5) If the elector fails or refuses to sign his name,
15 and if unable to write fails to procure two ~~(2)~~ electors who
16 will take the oath required, he shall may not be allowed to
17 vote.

18 ~~(6) Immediately after the canvass of the returns, the~~
19 ~~election judges shall deliver to the registrar the official~~
20 ~~register, sealed, with the election returns and pollbook~~
21 ~~which have been used for the election.~~

22 ~~(7) (6)~~ Each precinct shall keep a list of persons
23 voting, and the name of each person who votes shall be
24 entered in it and numbered in the order voting. This list is
25 known as the pollbook."

1 Section 33. Section 23-3611, B.C.M. 1947, is amended
2 to read as follows:

3 "23-3611. Grounds of challenge. A person offering to
4 vote may be orally challenged by any elector of the county,
5 upon the following grounds:

6 (1) ~~That~~ that he is not the person whose name appears
7 on the register or checklist;

8 (2) ~~That he has been adjudicated insane or is confined~~
9 ~~to a state institution that he is of unsound mind, as~~
10 determined by a court;

11 (3) ~~That~~ that he has voted before in that ~~day~~
12 election;

13 (4) ~~That~~ that he has been convicted of a felony and
14 ~~has not been pardoned is serving a sentence in a penal~~
15 institution."

16 Section 34. Section 23-3612, B.C.M. 1947, is amended
17 to read as follows:

18 "23-3612. Proceedings ~~on~~ pursuant to challenges ~~for~~
19 ~~want of identity, having voted before, and conviction of~~
20 felony -- oaths. (1) If the challenge is on the ground that
21 the person is not the person whose name appears on the
22 official register, the election judges shall administer the
23 following oath: "You do swear (or affirm) that you are the
24 person whose name is entered on the official register and
25 precinct list."

1 (2) If the challenge is on the ground that the person
2 has voted before in that day election, the judges shall
3 administer this oath: "You do swear (or affirm) that you
4 have not ~~before~~ voted before in this day election."

5 (3) If the challenge is on the ground that the person
6 has been convicted of a felony and is serving a sentence in
7 a penal institution, the judges shall administer the
8 following oath: "You do swear (or affirm) either that you
9 have not been convicted of a felony or that, if you have
10 been convicted of a felony, you are not serving a sentence
11 in a penal institution."

12 Section 35. Section 23-3613, R.C.M. 1947, is amended
13 to read as follows:

14 "23-3613. ~~Challenges, how determined~~ Determination of
15 challenges. (1) Challenges on the grounds that the person is
16 not the person whose name appears on the official register
17 or that the person has before voted that day are determined
18 in favor of the person challenged by his taking the oath
19 tendered.

20 (2) A challenge that the person has been convicted of
21 a felony and not pardoned must be determined in favor of the
22 challenged on his taking the oath tendered, ~~unless the~~
23 ~~conviction is proved by producing an authenticated copy of~~
24 ~~the record, or by oral testimony of two (2) witnesses.~~

25 ~~(a) If a person convicted of a felony states he was~~

1 ~~pardoned, he must exhibit his pardon or certified copy to~~
2 ~~the election judges.~~

3 ~~(b) If the pardon is found sufficient, the election~~
4 ~~judge shall administer this oath: "You do swear (or affirm)~~
5 ~~that you have not been convicted of any felony other than~~
6 ~~that for which a pardon is now exhibited."~~

7 ~~(c) After taking the oath, the person must be allowed~~
8 ~~to vote if otherwise qualified, unless a conviction of some~~
9 ~~other felony is proved."~~

10 Section 36. Section 23-3708, R.C.M. 1947, is amended
11 to read as follows:

12 "23-3708. Disposition of marked ballot upon receipt by
13 registrar or clerk. (1) Upon receipt of the envelope, the
14 registrar, city clerk, or clerk of a first class school
15 district shall immediately enclose it in a larger envelope,
16 together with the elector's application, and seal ~~it~~ the
17 larger envelope.

18 (2) The registrar, city clerk, or clerk of a first
19 class school district shall safely keep it in his office
20 until delivered or mailed by him."

21 Section 37. Section 23-3711, R.C.M. 1947, is amended
22 to read as follows:

23 "23-3711. Duty of election judges -- pollbooks, and
24 numbering ballots and rejected ballots. (1) The election
25 judges, at the opening of the polls, shall note on the

1 pollbooks opposite the numbers corresponding to the number
 2 of absentee ballots issued the fact that the ballots were
 3 issued and reserve the numbers for the absent or physically
 4 incapacitated voters. The notation may be made by writing
 5 the words "absent or physically incapacitated voters"
 6 opposite the numbers.

7 (2) The election judges shall insert only the ~~names~~
 8 name of the elector entitled to each particular number
 9 according to the certificate of the registrar or city clerk
 10 and the number of his ballot.

11 ~~(3) Any absentee ballots which have been rejected~~
 12 ~~shall be placed with the voter's application and the absent~~
 13 ~~or physically incapacitated voter's envelope furnished by~~
 14 ~~the registrar or city clerk.~~

15 ~~(a) This envelope shall be sealed and endorsed by the~~
 16 ~~words, "rejected absentee ballots," numbered ,,,, and shall~~
 17 ~~put on it the number of the absentee ballots given according~~
 18 ~~to the registrar's or city clerk's certificate.~~

19 ~~(b) There shall be a separate enclosing envelope for~~
 20 ~~the absentee ballots rejected, and the envelopes shall be~~
 21 ~~placed in an envelope together with other ballots, and shall~~
 22 ~~not be opened without a court order."~~

23 Section 38. Section 23-3713, B.C.E. 1947, is amended
 24 to read as follows:

25 "23-3713. Envelopes containing ballots — deposit in

1 box and rejection of ballot. (1) While the polls are open on
 2 election day, the election judges shall first open the outer
 3 envelope only, and compare the signature of the voter on the
 4 application and on the affirmation.

5 (2) If the election judges find that the signatures
 6 correspond, that the affirmation is sufficient, and that the
 7 absentee elector is qualified and has not yet voted, they
 8 shall open the absentee voter's envelope and take out the
 9 ballot or ballots and, without unfolding ~~it~~ them or
 10 permitting ~~it~~ them to be examined, ascertain whether the
 11 ~~stub is~~ stubs are still attached and whether the ~~number~~
 12 ~~corresponds~~ numbers correspond to the ~~number~~ numbers in the
 13 certificate of the registrar or city clerk.

14 (3) If so, they shall endorse ~~it~~ the ballots the same
 15 way that other ballots are endorsed, detach the ~~stub~~ stubs,
 16 deposit the ballots in the proper ballot boxes, and make
 17 entries in their election records to show the elector has
 18 voted.

19 (4) If the affirmation is found defective, the numbers
 20 do not correspond, or the voter is unqualified, the election
 21 judges, without opening the absentee ballot, shall mark
 22 across the face of it "rejected as defective" or "rejected
 23 as not an elector."

24 (5) The absentee ballot envelope, when it has been
 25 voted ~~or rejected~~, shall be deposited in the ballot box

1 containing the general or party ballots, and shall be
2 retained and preserved in the manner provided for official
3 ballots.

4 (6) If, upon opening the absentee ballot envelope, it
5 is found that the stub of any ballot has been detached, or
6 that the number does not correspond to the number on the
7 certificate of the registrar or clerk, the ballot shall be
8 rejected. It shall be marked on back as "rejected for
9" filling the blank with the reason. This statement
10 shall be dated and signed by a majority of the election
11 judges.

12 (7) The rejected ballots, together with the absentee
13 ballot envelope bearing the application, shall be enclosed
14 in an envelope, sealed, and the judges shall write on the
15 envelope, "rejected ballot of absentee voter" (writing in
16 the elector's name). "The rejected ballot(s) is (are)
17"

18 (8) The election judges shall designate the rejected
19 ballot as "general ballot," if it is a ballot for
20 candidates ~~that are rejected~~.

21 (9) If the rejected ballot is on a question submitted
22 to the vote of the electors, the judges shall designate it
23 as ballot question No. ~~in the certificate~~ on the
24 envelope.

25 (10) A separate enclosing envelope shall be used for

1 each absentee ballot rejected. This envelope shall be
2 placed in the envelope in which the other ballots voted are
3 required to be placed and shall not be opened without a
4 court order.

5 (11) The registrar or clerk shall provide and deliver
6 to the election judges suitable envelopes for enclosing
7 rejected absentee ballots."

8 Section 39. Section 23-3715, R.C.M. 1947, is amended
9 to read as follows:

10 "23-3715. Opening of envelopes after deposit. If an
11 envelope containing an absentee ballot has been deposited
12 unopened in the ballot box and the envelope has not been
13 marked rejected, the envelope shall be opened without a
14 court order and the ballot cast."

15 Section 40. Section 23-3801, R.C.M. 1947, is amended
16 to read as follows:

17 "23-3801. Voting machines -- secretary of state. (1)
18 Before any voting machine can be used, the secretary of
19 state shall:

20 (a) ~~Examine~~ examine the machine to determine if it
21 complies with the requirements of ~~sections~~ 23-3801 through
22 ~~23-3822 23-3819 and 23-3822~~;

23 (b) ~~Within thirty~~ within 30 days after examining a
24 machine, file a report in his office on each machine
25 examined;

1 (c) ~~within five~~ within 5 days after filing the
 2 report, transmit to the commissioners, city council, or
 3 other board having control of elections in each county or
 4 city a list of the machines approved.

5 (2) A machine shall not be used unless approved by the
 6 secretary of state ~~sixty~~ (60) days or more prior to the
 7 election.

8 (3) The secretary of state may employ and compensate
 9 qualified mechanics who are electors to assist him in duties
 10 required by this chapter ~~and compensate them~~.

11 (4) The person or company submitting a machine for
 12 examination before the filing of the report shall pay the
 13 compensation and expenses of mechanics connected with the
 14 examination to the secretary of state for deposit in the
 15 state general fund."

16 Section 41. Section 23-3807, R.C.M. 1947, is amended
 17 to read as follows:

18 "23-3807. Registrar to instruct election judges. (1)
 19 Before each election, the registrar shall instruct all
 20 election judges in the use of the machine and their duties.
 21 He shall give to each election judge ~~that~~ who has received
 22 instruction, and is fully qualified to conduct the election
 23 with the machine, a certificate to that effect.

24 (2) The registrar shall call meetings of the election
 25 judges as necessary for instruction. Election judges shall

1 attend meetings as necessary to receive the proper
 2 instructions.

3 (3) An election judge ~~shall~~ may not serve if voting
 4 machines are used unless he has received instruction, is
 5 fully qualified to perform duties in connection with the
 6 machine, and has received a certificate to that effect from
 7 the ~~custodian~~ registrar. However, this ~~shall~~ section does
 8 not prevent an emergency appointment of an election judge."

9 Section 42. Section 23-3822, R.C.M. 1947, is amended
 10 to read as follows:

11 "23-3822. ~~applicability of General~~ election laws in
 12 ~~general where not in conflict with this chapter to apply~~.
 13 All laws applicable to elections where voting is not done by
 14 machine, and all penalties prescribed for violations of
 15 those laws, apply to elections and precincts where voting
 16 machines are used if they are not in conflict with the
 17 provisions of ~~sections~~ 23-3801 through ~~23-3824~~ 23-3819."

18 Section 43. Section 23-3905, R.C.M. 1947, is amended
 19 to read as follows:

20 "23-3905. Procedure upon closing polls. (1) In
 21 precincts where an electronic voting system is used, as soon
 22 as the polls are closed, the election judges shall secure
 23 the marking devices against further voting. They shall
 24 thereafter open the ballot box and count the number of
 25 ballots or envelopes containing ballots that have been cast

1 to determine that the number of ballots does not exceed the
 2 number of voters shown on the poll or registry lists. If
 3 there is an excess, this fact shall be reported in writing
 4 to the appropriate election officer in charge with the
 5 reasons therefor, if known. The total number of voters shall
 6 be entered on the tally sheets. The election judges shall
 7 thereupon count the write-in votes and prepare a return of
 8 such votes on forms provided for this purpose. If ballot
 9 cards are used, all ballots on which write-in votes have
 10 been recorded shall be serially numbered, starting with the
 11 number one, and the same number shall be placed on the
 12 ballot card of the voter. The ~~inspectors or other~~
 13 ~~appropriate precinct~~ election officials judges shall compare
 14 the write-in votes with the votes cast on the ballot card,
 15 and if the total number of votes for any office exceeds the
 16 number allowed by law, a notation to that effect shall be
 17 entered on the back of the ballot card and ~~its~~ it shall be
 18 returned to the counting location in an envelope marked
 19 "defective ballots", ~~and such~~ Such invalid votes shall not
 20 not be counted. So far as applicable, provisions relating to
 21 defective paper ballots shall apply.

22 (2) The election judges shall place all ballots that
 23 have been cast in the container provided for that purpose,
 24 which shall be sealed and delivered ~~forthwith~~ immediately by
 25 the election judges to the counting location or other

1 designated place, together with the unused, void, and
 2 defective ballots and returns.

3 (3) All proceedings at the counting location shall be
 4 under the direction of the registrar or city clerk under the
 5 observation of at least three election judges designated by
 6 the commissioners or city council and shall be open to the
 7 public, but no persons except those employed and authorized
 8 for the purpose shall may touch any ballot, ballot
 9 container, or return. If any ballot is damaged or defective
 10 so that it cannot properly be counted by the automatic
 11 tabulating equipment, a true duplicate copy shall be made of
 12 the damaged ballot in the presence of witnesses and
 13 substituted for the damaged ballot. Likewise, a duplicate
 14 ballot shall be made of a defective ballot which shall not
 15 not include the invalid votes. All duplicate ballots shall
 16 be clearly labeled "duplicate", shall bear a serial number
 17 which shall be recorded on the damaged or defective ballot,
 18 and shall be counted in lieu of the damaged or defective
 19 ballot.

20 (4) The return printed by the automatic tabulating
 21 equipment, to which has been added the return of write-in
 22 and absentee votes, shall constitute the official return of
 23 each precinct or election district. Upon completion of the
 24 count the returns shall be open to the public."

25 Section 44. Section 23-4011, R.C.M. 1947, is amended

1 to read as follows:

2 "23-4011. ~~Canvass~~ County canvass to be public —
3 nonessentials to be disregarded ~~in counting returns~~. (1) The
4 canvass shall be public. It shall proceed by opening the
5 returns, ~~and~~ determining the vote for each person and each
6 proposition from each precinct, ~~and a declaration of~~
7 declaring the results.

8 (2) The returns shall not be rejected ~~if they do not~~
9 BECAUSE OF FAILURE TO show who administered the oath to the
10 election judges or clerks, because of failure to complete
11 all the certificates in the pollbooks, or because of failure
12 of any other act making up the returns that is not essential
13 to determine for whom the votes were cast."

14 Section 45. Section 23-4013, R.C.M. 1947, is amended
15 to read as follows:

16 "23-4013. Declaration of persons elected —~~certifying~~
17 ~~tie~~. (1) The board shall declare elected the persons having
18 the highest number of votes given for each ~~office to be~~
19 ~~filled in a single county or subdivision of a county~~ county
20 and district office voted for in only one county, other than
21 A LEGISLATOR OR A judge of the district court and each
22 precinct office.

23 (2) If a recount shows that two ~~(2)~~ or more persons
24 received an equal and sufficient number of votes for the
25 office of state senator or state representative, the county

1 recount board shall certify this to the governor."

2 Section 46. Section 23-4014, R.C.M. 1947, is amended
3 to read as follows:

4 "23-4014. Certificates issued by the clerk. (1) The
5 clerk shall immediately deliver to each person declared
6 elected by the board a certificate of election signed by him
7 and authenticated with the seal of the board.

8 (2) The certificate shall state that the official bond
9 must be filed within ~~thirty~~ ~~(30)~~ days after notice of
10 election or appointment and that failure to file the bond
11 vacates the office.

12 ~~(3) This certificate shall not be issued to persons~~
13 ~~elected district judge."~~

14 Section 47. Section 23-4015, R.C.M. 1947, is amended
15 to read as follows:

16 "23-4015. State returns, how made and transmitted. (1)
17 After a general or special election, the clerk shall make an
18 abstract of the vote for ~~members of the legislative~~
19 ~~assembly, for officers elected in the state at large, and~~
20 ~~for judicial officers other than justices of the peace~~
21 congressional offices, state or district offices voted for
22 in more than one county, members of the legislature, and
23 judges of the district court.

24 (2) The clerk shall seal the abstract, endorse it
25 "Election Returns," and immediately send it to the

1 secretary of state by certified or registered mail."

2 Section 48. Section 23-4103, R.C.M. 1947, is amended
3 to read as follows:

4 "23-4103. Conditions under which recount to be made. A
5 recount shall be made under any of the following
6 conditions:

7 (1) If a candidate ~~other than for the office of~~
8 ~~district judge for a county or district office voted for in~~
9 ~~only one county, other than a LEGISLATOR OR A judge of the~~
10 ~~district court, or a precinct office~~ is defeated by a margin
11 not exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the
12 total votes cast or by a margin not exceeding ~~ten (10)~~
13 votes, whichever is greater, he may within ~~five (5)~~ days
14 after the official canvass file with the registrar a
15 verified petition stating he believes a recount will change
16 the result and a recount of the votes for the office or
17 nomination should be had.

18 (2) If a candidate ~~is defeated for the office of~~
19 ~~district judge or an office voted on in more than one (1)~~
20 ~~county for a congressional office, a state or district~~
21 ~~office voted on in more than one county, the legislature, or~~
22 ~~judge of the district court is defeated~~ by a margin not
23 exceeding ~~one-fourth of one per cent (1/4 of 1%)~~ of the
24 total votes cast for all candidates for the same position,
25 he may within ~~five (5)~~ days after the official canvass file

1 a petition with the secretary of state as set forth in
2 subsection (1) ~~of this section~~. The secretary of state shall
3 immediately notify each registrar whose county includes any
4 precincts which voted for the same office by certified or
5 registered mail, and a recount shall be conducted in those
6 precincts.

7 (3) If a question submitted to the vote of the people
8 of the state is decided by a margin not exceeding ~~one-fourth~~
9 ~~of one per cent (1/4 of 1%)~~ of the total votes cast for and
10 against the question, a petition as set forth in subsection
11 (1) ~~of this section~~ may be filed with the secretary of
12 state. This petition shall:

13 ~~(a) Be signed by not less than one hundred (100)~~
14 electors of the state representing at least ~~five (5)~~
15 counties of the state and be filed within ~~five (5)~~ days
16 after the official canvass.

17 ~~(b) (4)~~ The secretary of state shall immediately notify
18 each registrar by certified or registered mail of the filing
19 of the petition, and a recount shall be conducted in all
20 precincts in each county.

21 ~~(4) (5)~~ If there is a tie vote, the board making the
22 canvass shall certify the vote ~~to the registrar if the~~
23 ~~election took place only in one (1) county and to the~~
24 ~~secretary of state for other elections, the registrar or~~
25 ~~secretary of state shall proceed as if a petition for~~

~~recount had been filed under this act. If a tie exists after the recount, the tie shall be resolved as provided by law;~~

(a) to the registrar, if the election was for a county or district office voted on in only one county, other than a LEGISLATOR OR A judge of the district court, or a precinct office or a ballot issue voted on in only one county;

(b) to the secretary of state, if the election was for a congressional office, a state or district office voted on in more than one county, the legislature, or judge of the district court or a ballot issue voted on in more than one county.

(6) When a tie has been certified to the registrar or secretary of state, as provided in subsection (5), he shall proceed as if a petition for a recount has been filed. If a tie exists after the recount, the tie shall be resolved as provided by law."

Section 49. Section 23-4117, R.C.S. 1947, is amended to read as follows:

~~"23-4117. Certification of recount results--transmittal to secretary of state corrected abstract of votes--new certificate of election or nomination Procedure after recount. (1) Immediately after the recount the county recount board shall certify the result.~~

(2) At least two ~~(2)~~ members of the board shall sign the certificate, and it shall be attested to under seal by

the registrar.

(3) The certificate shall set forth in substance the proceedings of the board and appearance of any candidates or representatives, and it shall adequately designate each precinct recounted, the vote of each precinct according to the official canvass previously made, the nomination, position, or question involved, and the correct vote of each precinct as determined by the recount.

(4) ~~When the certificate relates to a recount for an office, nomination, position, or question voted upon in more than one (1) county or for judge of the district court a congressional office, a state or district office voted on in more than one county, a legislative office, or an office of judge of the district court or a ballot issue voted on in more than one county, the certificate shall be made in duplicate. One (1) copy shall be transmitted immediately to the secretary of state by certified or registered mail.~~

(5) (a) If the recount relates to an office, nomination, position, or question voted upon in only one (1) county, or part of a single county a county or district office voted for in only one county, other than a LEGISLATOR OR A judge of the district court, or a precinct office or a ballot issue voted on in only one county, the county recount board shall immediately recanvass the returns as corrected by the certificate showing the result of the recount and

1 make a corrected abstract of the votes.

2 ~~(a)(b)~~ If the corrected abstract shows no change in
3 the result, no further action shall need be taken.

4 ~~(b)(c)~~ If there is a change in the result, a new
5 certificate of election or nomination shall be issued to
6 each candidate found to be elected or nominated."

7 Section 50. Section 23-4121, R.C.M. 1947, is amended
8 to read as follows:

9 "23-4121. Procedure upon tie vote for state executive
10 officers -- county officers other than county commissioner
11 -- ~~township officers~~ -- commissioners. (1) If there is a tie
12 vote for governor, and lieutenant governor, secretary of
13 state, attorney general, state auditor, ~~state treasurer,~~
14 clerk of the supreme court, superintendent of public
15 instruction, or any other state executive officer, the
16 legislative ~~assembly~~ legislature, at its next regular
17 session, shall elect a person to fill the office by joint
18 ballot of the two ~~(2)~~ houses.

19 (2) If there is a tie vote for clerk of the district
20 court, county attorney, or any county officer, except county
21 commissioner, ~~or for a township officer,~~ the commissioners
22 shall appoint an eligible person as in case of other
23 vacancies in the office.

24 (3) If there is a tie vote for commissioner, the
25 senior district judge shall appoint an eligible person to

1 fill the office as in other cases of vacancy.

2 (4) If there is a tie vote for state officers, the
3 secretary of state shall transmit a certified copy of the
4 statement to the legislative ~~assembly~~ legislature showing
5 the votes cast for the two ~~(2)~~ or more persons having an
6 equal and the highest number of votes."

7 Section 51. Section 23-4401, R.C.M. 1947, is amended
8 to read as follows:

9 "23-4401. Election of United States senators and
10 representatives -- ~~for full term and to fill vacancies.~~ (1)
11 United States senators and representatives shall be elected
12 at the general election preceding commencement of the term
13 to be filled.

14 ~~(2) If a vacancy occurs for senator, or United States~~
15 ~~representative, an election to fill the vacancy shall be~~
16 ~~held at the next general election. If an election is invalid~~
17 ~~or not held at that time, the election shall be at the~~
18 ~~second succeeding general election.~~

19 ~~(3)(2)~~ Nominations and elections shall be as provided
20 by law for governor."

21 Section 52. Section 23-4402, R.C.M. 1947, is amended
22 to read as follows:

23 "23-4402. ~~Writs of election to fill vacancy~~ Vacancy in
24 office of United States senator. (1) If a vacancy occurs in
25 the office of United States senator ~~or representative,~~ the

1 ~~governor shall issue a writ of election to fill the vacancy,~~
 2 ~~an election to fill the vacancy shall be held at the next~~
 3 ~~general election. If the election is invalid or not held at~~
 4 ~~that time, the election to fill the vacancy shall be held at~~
 5 ~~the next succeeding general election.~~

6 (2) The governor may make a temporary appointment to
 7 fill the vacancy until the election."

8 Section 53. There is a new R.C.M. section that reads
 9 as follows:

10 Vacancy in the office of United States representative.

11 (1) Whenever a vacancy occurs in the office of United States
 12 representative, the governor shall immediately issue a writ
 13 of election to fill the vacancy.

14 (2) The election to fill the vacancy shall be held
 15 within 3 months from the time the vacancy occurs.

16 Section 54. Section 23-4737, R.C.M. 1947, is amended
 17 to read as follows:

18 "23-4737. Payments in name of undisclosed principal.
 19 No person shall may make a payment of his own money or of
 20 another ~~persons~~ person's money to any other person in
 21 connection with a nomination or election in any other name
 22 than that of the person who in truth supplies such money;
 23 ~~nor shall any.~~ No person may knowingly receive such payment,
 24 or enter, or cause the same to be entered, in his accounts
 25 or records in another name than that of the person by whom

1 it was actually furnished; provided, if the money ~~he is~~
 2 received from the treasurer of any political ~~organization~~
 3 ~~committee~~, it ~~shall be~~ is sufficient to enter the same as
 4 received from ~~said the~~ treasurer."

5 Section 55. Section 23-4757, R.C.M. 1947, is amended
 6 to read as follows:

7 "23-4757. Forfeiture of nomination or office for
 8 violation of law, when not worked. ~~where~~ If, upon the trial
 9 of any action or proceeding under the provisions of ~~this act~~
 10 ~~for the Title 23 or Title 37 to contest of~~ the right of any
 11 person to be declared nominated or elected to any office, or
 12 to annul or set aside such nomination or election, or to
 13 remove a person from his office, it appears from the
 14 evidence that the offense complained of was not committed by
 15 the candidate, or with his knowledge or consent, or was
 16 committed without his sanction or connivance, and that all
 17 reasonable means for preventing the commission of such
 18 offense at such election were taken by and on behalf of the
 19 candidate; ~~or~~ that the offense or offenses complained of
 20 were trivial, unimportant, and limited in character, and
 21 that in all other respects his participation in the election
 22 was free from such offenses or illegal acts; or that any
 23 act or omission of the candidate arose from inadvertence or
 24 from accidental miscalculation, or from some other
 25 reasonable cause of a like nature, and in any case did not

1 arise from any want of good faith, and under the
 2 circumstances it seems to the court to be unjust that the
 3 said candidate shall forfeit his nomination or office, or be
 4 deprived of any office of which he is the incumbent, then
 5 the nomination or election of ~~such~~ the candidate shall ~~is~~
 6 not by reason of such offense or omission complained of be
 7 void, nor shall may the candidate be removed from or
 8 deprived of his office."

9 Section 56. Section 23-4758, B.C.E. 1947, is amended
 10 to read as follows:

11 "23-4758. Punishment ~~for violation of act.~~ If, upon
 12 the trial of any action or proceeding under the provisions
 13 of ~~this act, for the contesting of Title 23 or Title 37 to~~
 14 contest the right of any person to be declared to be
 15 nominated to an office, or elected to an office, or to annul
 16 and set aside such election, or to remove any person from
 17 his office, it ~~shall appear~~ appears that such person was
 18 guilty of any corrupt practice, illegal act, or undue
 19 influence, in or about such nomination or election, he shall
 20 be punished by being deprived of the nomination or office,
 21 as the case may be, and the vacancy therein shall be filled
 22 in the manner provided by law. The only ~~exception~~ exceptions
 23 to this judgment shall be ~~that those~~ those provided in the
 24 ~~preceding section of this act 23-4757.~~ Such judgment shall
 25 does not prevent the candidate or officer from being

1 proceeded against by indictment or criminal information for
 2 any such act or acts."

3 Section 57. Section 23-4759, B.C.E. 1947, is amended
 4 to read as follows:

5 "23-4759. Time for commencing contest. Any action to
 6 contest the right of any person to be declared elected to an
 7 office, or to annul and set aside such election, or to
 8 remove from or deprive any person of an office of which he
 9 is the incumbent, for any offense mentioned in ~~this act~~
 10 Title 23 or Title 37, must, unless a different time be
 11 stated, be commenced within ~~forty days~~ 1 year after the
 12 return day of the election at which such offense was
 13 committed, ~~unless the ground of the action or proceeding is~~
 14 ~~for the illegal payment of money or other valuable thing~~
 15 ~~subsequent to the filing of the statements prescribed by~~
 16 ~~this act, in which case the action or proceeding may be~~
 17 ~~commenced within forty days after the discovery by the~~
 18 ~~complainant of such illegal payment. A contest of the~~
 19 ~~nomination or office of governor or representative or~~
 20 ~~senator in congress must be commenced within twenty days~~
 21 ~~after the declaration of the result of the election, but~~
 22 ~~this shall not be construed to apply to any contest before~~
 23 ~~the legislative assembly."~~

24 Section 58. Section 23-4760, B.C.E. 1947, is amended
 25 to read as follows:

1 *23-476C. Court having jurisdiction of proceedings. An
 2 application for filing a statement, payment of a claim, or
 3 correction of an error or false recital in a filed statement
 4 ~~filed~~, or an action or proceeding to annul and set aside the
 5 election of any person declared elected to an office, or to
 6 remove or deprive any person of his office for an offense
 7 mentioned in ~~this act~~, Title 23 or Title 37 or any petition
 8 to excuse any person or candidate in accordance with the
 9 power of the court to excuse, as provided in ~~section~~
 10 23-4757, must be made or filed in the district court of the
 11 county in which the certificate of his nomination as a
 12 candidate for the office to which he is declared nominated
 13 or elected is filed, or in which the incumbent resides."

14 Section 59. Section 23-4763, R.C.M. 1947, is amended
 15 to read as follows:

16 *23-4763. Grounds for contest of nomination or office.
 17 ~~Any~~ An elector of the state, or of any political or
 18 municipal division thereof, may contest the right of any
 19 person to any nomination or office for which ~~each~~ the
 20 elector has the right to vote, for any of the following
 21 causes:

22 ~~4. [1] On or~~ On the ground of a deliberate, serious, and
 23 material violation of any ~~of the provisions of this act, or~~
 24 ~~of any other~~ provision of the law relating to nominations or
 25 elections.;

1 ~~2. [2] When whenever~~ the person whose right ~~was~~ is
 2 contested was not, at the time of the election, eligible to
 3 such office.;

4 ~~3. [3] On or~~ On account of illegal votes or an erroneous
 5 or fraudulent count or canvass of votes."

6 Section 60. Section 23-4767, R.C.M. 1947, is amended
 7 to read as follows:

8 *23-4767. Hearing of contest. The petitioner
 9 (contestant) and the contestee may appear and produce
 10 evidence at the hearing, but no person, other than the
 11 petitioner and contestee, ~~shall~~ may be made a party to the
 12 proceedings on such petition; and no person, other than ~~said~~
 13 the parties and their attorneys, ~~shall~~ may be heard thereon,
 14 except by order of the court. If more than one petition is
 15 pending, or the election of more than one person is
 16 contested, the court may, in its discretion, order the cases
 17 to be heard together, and may apportion the costs,
 18 disbursements, and attorney's fees between them, and shall
 19 finally determine all questions of law and fact, save only
 20 that the judge may, in his discretion, impanel a jury to
 21 decide on questions of fact. ~~In the case of a contested~~
 22 ~~nomination or election for Senator or Representative in the~~
 23 ~~Legislative Assembly, or for Senator or Representative in~~
 24 ~~Congress, the court shall forthwith certify its findings to~~
 25 ~~the Secretary of State to be by him transmitted to the~~

1 ~~presiding officer of the body in question.~~ In the case of
 2 ~~other~~ nominations or elections, other than for federal
 3 congressional offices, the court shall ~~forthwith~~ immediately
 4 certify its decision to the board or official issuing
 5 certificates of nomination or election, ~~which and the~~ board
 6 or official shall thereupon issue certificates of nomination
 7 or election to the person or persons entitled thereto by
 8 ~~such the court's~~ decision. If judgment of ouster against a
 9 defendant ~~shall be~~ is rendered, ~~said judgment shall award~~
 10 ~~the nomination or office to the person receiving next the~~
 11 ~~highest number of votes, unless it shall be further~~
 12 ~~determined in the action, upon appropriate pleading and~~
 13 ~~proof by the defendant, that some act has been done or~~
 14 ~~committed which would have been ground in a similar action~~
 15 ~~against such person, had he received the highest number of~~
 16 ~~votes for such nomination or office, for a judgment of~~
 17 ~~ouster against him; and if it shall be so determined at the~~
 18 ~~trial, the nomination or office shall be by the judgment~~
 19 ~~declared vacant, except as provided in 23-4762,~~ and shall
 20 thereupon be filled by a new election, or by appointment, as
 21 may be provided by law regarding vacancies in such
 22 nomination or office."

23 Section 61. Section 23-4770, R.C.M. 1947, is amended
 24 to read as follows:

25 "23-4770. Advancement of cases -- dismissal, ~~when~~ --

1 privileges of witnesses. Proceedings under ~~this act~~ Title 23
 2 or Title 37 shall be advanced on the docket upon request of
 3 either party for speedy trial, but the court may postpone or
 4 continue ~~such the~~ trial if ~~the ends of justice may be~~
 5 ~~thereby more effectually secured~~ necessary, and in case of
 6 such continuance or postponement, the court may impose costs
 7 in its discretion as a condition thereof. No petition ~~shall~~
 8 ~~may~~ be dismissed without the consent of the county attorney,
 9 unless the same ~~shall be~~ is dismissed by the court. No
 10 person ~~shall may~~ be excused from testifying or producing
 11 papers or documents on the ground that his testimony or the
 12 production of papers or documents will tend to criminate
 13 him; but no admission, evidence, or paper made or advanced
 14 or produced by such person ~~shall or any evidence that is the~~
 15 direct result of such evidence or information that he may
 16 have so given may be offered or used against him in any
 17 civil or criminal prosecution, ~~or any evidence that is the~~
 18 ~~direct result of such evidence or information that he may~~
 19 ~~have so given,~~ except in a prosecution for perjury committed
 20 in such testimony."

21 Section 62. Section 23-4785, R.C.M. 1947, is amended
 22 to read as follows:

23 "~~23-4785. Commissioner~~ ~~how~~ ~~appointed,~~
 24 ~~qualifications, and offices~~ Creation of office. (1) There is
 25 ~~hereby created the position of a~~ commissioner of campaign

1 finances and practices, who shall be appointed by a majority
 2 of a ~~four (4)-member~~ four-member selection committee which
 3 shall be comprised of the speaker of the house, the
 4 president of the senate, and the minority floor leaders of
 5 both houses of the Montana legislature. However, if a
 6 majority of the members of the selection committee cannot
 7 agree upon the selection of a commissioner within ~~thirty~~
 8 ~~(30)~~ days after ~~the passage and approval of this act a~~
 9 vacancy occurs or a term expires, the Montana supreme court
 10 shall appoint a fifth public member to the selection
 11 committee. The majority of the five ~~(5)~~ members of the
 12 selection committee shall then select the commissioner.

13 (2) The individual selected to serve as the
 14 commissioner of campaign finances and practices shall be
 15 appointed for a ~~five (5)-year~~ 5-year term, but he ~~shall~~ is
 16 thereafter be ineligible to serve as the commissioner of
 17 campaign finances and practices and ~~shall be~~ is precluded
 18 from being a candidate for public office as defined in this
 19 act for a period of ~~five (5)~~ years from the time that his
 20 term as commissioner expires.

21 (3) If for any reason a vacancy should occur in the
 22 position of commissioner, a successor shall be appointed
 23 within ~~thirty (30)~~ days as provided in subsection (1) to
 24 serve out the unexpired term. An individual who is selected
 25 to serve out the unexpired term of a preceding commissioner

1 ~~shall be~~ is entitled to be reappointed for a ~~five (5)-year~~
 2 5-year term as provided in subsection (1).

3 (4) The commissioner may be removed from office by
 4 impeachment as provided in ~~sections~~ 95-2801 and 95-2802,
 5 ~~R.C.M. 1947~~. He may also be prosecuted by the appropriate
 6 county attorney for official misconduct as specified in
 7 ~~section~~ 94-7-401, ~~R.C.M. 1947~~.

8 (5) The commissioner of campaign finances and
 9 practices ~~shall receive~~ is entitled to an annual salary of
 10 ~~twenty-one thousand dollars (\$21,000)~~, and the salary
 11 commission may recommend salary increases to the
 12 legislature.

13 (6) The office of the commissioner ~~shall be~~ is
 14 attached to the office of the secretary of state for
 15 administrative purposes only, as specified in ~~section~~
 16 82A-108, except that the provisions of subsections (1) (b),
 17 (1) (c), (2) (a), (2) (b), (2) (d), (2) (e), and (3) (a) of
 18 ~~section~~ 82A-108, ~~R.C.M. 1947~~, do not apply."

19 Section 63. Section 23-4786, R.C.M. 1947, is amended
 20 to read as follows:

21 "23-4786. Powers and duties of the commissioner. ~~The~~
 22 ~~commissioner shall exercise the following powers and perform~~
 23 ~~the following duties:~~

24 (1) The commissioner of campaign finances and
 25 practices shall be responsible for investigating all of the

1 alleged violations of the election laws contained in Title
2 ~~23, R.C.M. 1947, or Title 37~~ and shall in conjunction with
3 the county attorneys, be responsible for enforcing all of
4 the state's election laws.

5 (2) The commissioner shall select an appropriate staff
6 to enforce the provisions of Title ~~23, R.C.M. 1947~~ and Title
7 ~~37~~, and he ~~shall have the power to~~ may hire and fire all
8 personnel under his supervision.

9 (3) The commissioner may hire or retain attorneys who
10 are properly licensed to practice before the supreme court
11 of the state of Montana to prosecute violations of Title ~~23,~~
12 ~~R.C.M. 1947~~ or Title 37. Any properly licensed attorney so
13 retained or hired shall exercise the powers of a special
14 attorney general, and he ~~shall have the power to~~ may
15 prosecute, subject to the control and supervision of the
16 commissioner and the provisions of ~~section 23-4768~~, any
17 criminal or civil action arising out of a violation of any
18 provision of Title ~~23, R.C.M. 1947~~ or Title 37. All
19 prosecutions shall be brought in the state district court
20 for the county in which a violation has occurred or in the
21 district court for Lewis and Clark County. The authority to
22 prosecute as prescribed by this section includes the
23 authority to:

24 (a) institute proceedings for the arrest of persons
25 charged with or reasonably suspected of criminal violations

1 of Title ~~23, R.C.M. 1947~~ or Title 37;

2 (b) attend and give advice to a grand jury when cases
3 involving criminal violations of Title ~~23, R.C.M. 1947,~~ or
4 Title 37 are presented;

5 (c) draw and file indictments, informations, and
6 criminal complaints;

7 (d) prosecute all actions for the recovery of debts,
8 fines, penalties, ~~and~~ or forfeitures accruing to the state
9 or county from persons convicted of violating Title ~~23,~~
10 ~~R.C.M. 1947~~ or Title 37; and

11 (e) do any other act necessary to successfully
12 prosecute a violation of any provision of Title ~~23, R.C.M.~~
13 ~~1947~~ or Title 37.

14 (4) The commissioner shall prescribe forms for
15 statements and other information required to be filed
16 pursuant to Title ~~23, R.C.M. 1947,~~ or Title 37 and furnish
17 forms and appropriate information to persons required to
18 file statements and information.

19 (5) The commissioner shall prepare and publish a
20 manual prescribing a uniform system for accounts for use by
21 persons required to file statements pursuant to Title ~~23,~~
22 ~~R.C.M. 1947~~ or Title 37.

23 (6) The commissioner shall accept and file any
24 information voluntarily supplied that exceeds the
25 requirements of Title ~~23, R.C.M. 1947~~ or Title 37.

1 (7) The commissioner shall prescribe the manner in
2 which the county clerks and recorders shall receive, file,
3 collate, and maintain reports filed with them under Title
4 ~~23, R.C.M., 1947~~ or Title 37.

5 (8) The commissioner shall make statements and other
6 information filed with his office available for public
7 inspection and copying during regular office hours, and make
8 copying facilities available free of charge or at a charge
9 not to exceed actual cost.

10 (9) The commissioner shall preserve statements and
11 other information filed with his office for a period of ~~ten~~
12 ~~(10)~~ years from date of receipt.

13 (10) The commissioner shall prepare and publish
14 summaries of the statements received.

15 (11) The commissioner shall prepare and publish such
16 other reports as he ~~may deem~~ considers appropriate.

17 (12) The commissioner shall provide for wide public
18 dissemination of summaries and reports.

19 (13) The commissioner ~~shall have the authority to~~ may
20 investigate all statements filed pursuant to the provisions
21 of Title ~~23, R.C.M., 1947~~ or Title 37 and shall also
22 investigate alleged failures to file any statement or the
23 alleged falsification of any statement filed pursuant to the
24 provisions of Title ~~23, R.C.M., 1947~~ or Title 37. Upon the
25 submission of a written complaint by any individual, the

1 commissioner shall also investigate any other alleged
2 violation of the provisions of Title ~~23, R.C.M., 1947~~ or
3 Title 37 or any rule ~~or regulation~~ adopted pursuant thereto.

4 (14) The commissioner shall promulgate and publish
5 rules ~~and regulations~~ to carry out the provisions of Title
6 ~~23, R.C.M., 1947~~ or Title 37 and shall promulgate such rules
7 in conformance with the Montana Administrative Procedure
8 Act.

9 (15) The commissioner shall at the close of each fiscal
10 year report to the legislature and the governor concerning
11 the action he has taken, including the names, salaries, and
12 duties of all individuals in his employ and the money he has
13 disbursed. The commissioner shall also make further reports
14 on the matters within his jurisdiction as the legislature
15 may prescribe and shall also make recommendations for
16 further legislation as may appear desirable.

17 (16) The commissioner shall be responsible for
18 preparing, administering, and allocating the budget for his
19 office.

20 (17) The commissioner ~~shall have the power to~~ may
21 inspect any records, accounts, or books that must be kept
22 pursuant to the provisions of Title ~~23, R.C.M., 1947~~ or Title
23 37, which are held by any political committee or candidate
24 so long as such inspection is made during reasonable office
25 hours.

1 (18) The commissioner ~~shall have the power to~~ may issue
 2 orders of noncompliance as prescribed by ~~section~~ 23-4787.

3 (19) The commissioner ~~shall~~ may exercise all of the
 4 powers conferred upon him by ~~this act or any other provisions~~
 5 ~~of state law in any jurisdiction or political subdivision of~~
 6 the state.

7 (20) After receiving the final campaign contribution
 8 and expenditure report filed as required by Title 23, ~~R.C.M.~~
 9 ~~1947~~, the commissioner shall inform the secretary of state,
 10 or the city or county clerk and recorder that each candidate
 11 who has been properly elected to any public office has filed
 12 his final contribution and expenditure report as specified
 13 in ~~section~~ 23-4778.

14 (21) The commissioner ~~shall have the authority to~~ may
 15 administer oaths and affirmations, subpoena witnesses,
 16 compel their attendance, take evidence, and require the
 17 production of any books, papers, correspondence, memoranda,
 18 bank account statements of a political committee or
 19 candidate, or other records which are relevant or material
 20 for the purpose of conducting any investigation pursuant to
 21 the provisions of Title 23, ~~R.C.M. 1947~~ or Title 37."

22 Section 64. Section 23-4787, R.C.M. 1947, is amended
 23 to read as follows:

24 "23-4787. ~~Examination~~ Inspection of statements and
 25 issuance of orders of noncompliance. (1) Each statement

1 filed with the commissioner during an election or within
 2 ~~sixty (60)~~ days thereafter shall be inspected within ~~ten~~
 3 ~~(10)~~ days after the date upon which the statement is filed.

4 If a person has not satisfied the provisions of Title 23,
 5 ~~R.C.M. 1947, or Title 37~~, the commissioner shall immediately
 6 notify a the person of the noncompliance. Such an order of
 7 noncompliance shall be issued when:

8 (a) upon examination of the official ballot, it
 9 appears that the person has failed to file a statement as
 10 required by law or that a statement filed by a person does
 11 not conform to law; or

12 (b) it is determined that a statement filed with the
 13 commissioner does not conform to the requirements of Title
 14 23, ~~R.C.M. 1947~~ or Title 37, or that a person has failed to
 15 file a statement required by law.

16 (2) If an order of noncompliance is issued during a
 17 campaign period, or within ~~sixty (60)~~ days after an
 18 election, a candidate or political committee shall submit
 19 the necessary information within five (5) days after
 20 receiving the notice of noncompliance. Upon a failure to
 21 submit the required information within the time specified,
 22 the appropriate county attorney or the commissioner ~~shall~~
 23 ~~have the authority to~~ may initiate a civil or criminal
 24 action pursuant to the procedures outlined in ~~section~~
 25 23-4788.

1 (3) If an order of noncompliance is issued during any
 2 other period than that described in subsection (2), a
 3 candidate or political committee shall submit the necessary
 4 information within ~~ten (10)~~ days after receiving the notice
 5 of noncompliance. Upon a failure to submit the required
 6 information within the time specified, the appropriate
 7 county attorney or the commissioner shall initiate a civil
 8 or criminal action pursuant to the procedures outlined in
 9 ~~section~~ 23-4788.

10 (4) A candidate or political treasurer aggrieved by
 11 the issuance of an order of noncompliance may seek judicial
 12 review in the district court of the county in which the
 13 candidate resides or the county in which the political
 14 committee has its headquarters. All petitions for judicial
 15 review filed pursuant to this ~~act~~ section shall be
 16 expeditiously reviewed by the appropriate district court.

17 (5) Within ~~one hundred twenty (120)~~ days after the
 18 date of each election, the commissioner shall examine and
 19 compare each statement or report filed with the commissioner
 20 pursuant to the provisions of Title 23, ~~R.C.M. 1947, or~~
 21 Title 37 to determine whether a statement or report conforms
 22 to the provisions of the law. The examination shall include
 23 a comparison of all reports and statements received by the
 24 commissioner pursuant to the requirements of Title 23,
 25 ~~R.C.M. 1947 or Title 37~~. The commissioner may investigate

1 the source and authenticity of any contribution or
 2 expenditure listed in any report or statement filed pursuant
 3 to Title 23, ~~R.C.M. 1947, or Title 37~~ or the alleged failure
 4 to report any contribution or expenditure required to be
 5 reported pursuant to Title 23, ~~R.C.M. 1947 or Title 37~~."

6 Section 65. Section 23-4788, R.C.M. 1947, is amended
 7 to read as follows:

8 "~~23-4788. Prosecutions and powers of the~~ Consultation
 9 and cooperation with county attorney. (1) ~~When~~ Whenever the
 10 commissioner determines that there appears to be sufficient
 11 evidence to justify a civil or criminal prosecution ~~as~~
 12 ~~specified in section 23-4793~~, he shall notify the county
 13 attorney of the county in which the alleged violation
 14 occurred and shall arrange to transmit to the county
 15 attorney all information relevant to the alleged violation.
 16 If the county attorney fails to initiate the appropriate
 17 civil or criminal action within ~~thirty (30)~~ days after he
 18 receives notification of the alleged violation, the
 19 commissioner may then initiate the appropriate legal action.

20 (2) A county attorney may at any time prior to the
 21 expiration of the ~~thirty (30)-day~~ 3(-day) time period
 22 specified in subsection (1) ~~waive~~ waive his right to prosecute
 23 and thereby authorize the commissioner to initiate the
 24 appropriate civil or criminal action ~~as specified in~~
 25 ~~section 23-4793~~.

1 (3) The provisions of subsection (1) do not apply to a
2 situation in which the alleged violation has been committed
3 by the county attorney of a county. In this instance, the
4 commissioner is authorized to directly prosecute any alleged
5 violation of Title 23, R.C.M. 1947 or Title 37.

6 (4) If a prosecution is undertaken by the
7 commissioner, all court costs associated with the
8 prosecution shall be paid by the state of Montana, and all
9 finer and forfeitures imposed pursuant to a prosecution by
10 the commissioner shall be deposited in the state general
11 fund.

12 (5) Nothing in this act ~~shall prevent~~ prevents a
13 county attorney from inspecting any records, accounts, or
14 books which must be kept pursuant to the provisions of Title
15 23, ~~R.C.M. 1947, or Title 37~~ that are held by any political
16 committee or candidate involved in an election to be held
17 within the county. However, such inspections must be
18 conducted during reasonable office hours.

19 (6) A county attorney ~~shall have the authority to~~ may
20 administer oaths and affirmations, subpoena witnesses,
21 compel their attendance, take evidence, and require the
22 production of any books, correspondence, memoranda, bank
23 account statements of a political committee or candidate, or
24 other records which are relevant or material for the purpose
25 of conducting any investigation pursuant to the provisions

1 of Title 23, ~~R.C.M. 1947~~ or Title 37."

2 ~~Section 66, Section 23-4789, R.C.M. 1947, is amended~~
3 ~~to read as follows:~~

4 ~~"23-4789. Right to inspect current accounts and~~
5 ~~reports. Every individual shall have the right to inspect~~
6 ~~any report or current account that must be kept or filed~~
7 ~~pursuant to the provisions of Title 23, R.C.M. 1947 or Title~~
8 ~~37, but only if such inspection will occur during reasonable~~
9 ~~office hours and in such a manner that normal office~~
10 ~~functions will not be unnecessarily interrupted.~~

11 Section 66. Section 23-4794, R.C.M. 1947, is amended
12 to read as follows:

13 "23-4794. Secretary of state ~~must~~ to furnish copies of
14 ~~this act~~ certain election laws to appropriate officials. The
15 secretary of state shall, at the expense of the state,
16 furnish the county clerk, and the city and town clerks, with
17 copies of ~~Title 23, Chapter 47, R.C.M. 1947~~ the election
18 laws relating to penalties, campaign practices, campaign
19 finances, and contests. The public official with whom a
20 candidate files a declaration or certificate of nomination
21 shall transmit ~~a copy of Title 23, Chapter 47, R.C.M. 1947,~~
22 one of these copies to the candidate. Such copies shall
23 also be furnished to any other person required to file a
24 statement. Upon his own information, or at the written
25 request of any voter, the secretary of state shall provide a

1 (3) If an order of noncompliance is issued during any
 2 other period than that described in subsection (2), a
 3 candidate or political committee shall submit the necessary
 4 information within ~~ten~~(10) days after receiving the notice
 5 of noncompliance. Upon a failure to submit the required
 6 information within the time specified, the appropriate
 7 county attorney or the commissioner shall initiate a civil
 8 or criminal action pursuant to the procedures outlined in
 9 ~~section~~ 23-4788.

10 (4) A candidate or political treasurer aggrieved by
 11 the issuance of an order of noncompliance may seek judicial
 12 review in the district court of the county in which the
 13 candidate resides or the county in which the political
 14 committee has its headquarters. All petitions for judicial
 15 review filed pursuant to this ~~act~~ section shall be
 16 expeditiously reviewed by the appropriate district court.

17 (5) Within ~~one hundred twenty~~(120) days after the
 18 date of each election, the commissioner shall examine and
 19 compare each statement or report filed with the commissioner
 20 pursuant to the provisions of Title 23, ~~B.C.H. 1947, or~~
 21 Title 37 to determine whether a statement or report conforms
 22 to the provisions of the law. The examination shall include
 23 a comparison of all reports and statements received by the
 24 commissioner pursuant to the requirements of Title 23,
 25 ~~B.C.H. 1947 or Title 37~~. The commissioner may investigate

1 the source and authenticity of any contribution or
 2 expenditure listed in any report or statement filed pursuant
 3 to Title 23, ~~B.C.H. 1947, or Title 37~~ or the alleged failure
 4 to report any contribution or expenditure required to be
 5 reported pursuant to Title 23, ~~B.C.H. 1947 or Title 37~~."

6 Section 65. Section 23-4788, B.C.H. 1947, is amended
 7 to read as follows:

8 "23-4788. ~~Prosecutions and powers of the~~ Consultation
 9 and cooperation with county attorney. (1) ~~When~~ Whenever the
 10 commissioner determines that there appears to be sufficient
 11 evidence to justify a civil or criminal prosecution ~~as~~
 12 ~~specified in section 23-4793~~, he shall notify the county
 13 attorney of the county in which the alleged violation
 14 occurred and shall arrange to transmit to the county
 15 attorney all information relevant to the alleged violation.
 16 If the county attorney fails to initiate the appropriate
 17 civil or criminal action within ~~thirty~~(30) days after he
 18 receives notification of the alleged violation, the
 19 commissioner may then initiate the appropriate legal action.

20 (2) A county attorney may at any time prior to the
 21 expiration of the ~~thirty~~(30)-day 30-day time period
 22 specified in subsection (1) ~~waive~~ his right to prosecute
 23 and thereby authorize the commissioner to initiate the
 24 appropriate civil or criminal action ~~as specified in~~
 25 ~~section 23-4793~~.

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1 (3) The provisions of subsection (1) do not apply to a
 2 situation in which the alleged violation has been committed
 3 by the county attorney of a county. In this instance, the
 4 commissioner is authorized to directly prosecute any alleged
 5 violation of Title 23, R.C.M. 1947 or Title 37.

6 (4) If a prosecution is undertaken by the
 7 commissioner, all court costs associated with the
 8 prosecution shall be paid by the state of Montana, and all
 9 finances and forfeitures imposed pursuant to a prosecution by
 10 the commissioner shall be deposited in the state general
 11 fund.

12 (5) Nothing in this act ~~shall prevent~~ prevents a
 13 county attorney from inspecting any records, accounts, or
 14 books which must be kept pursuant to the provisions of Title
 15 23, R.C.M. 1947, or Title 37 that are held by any political
 16 committee or candidate involved in an election to be held
 17 within the county. However, such inspections must be
 18 conducted during reasonable office hours.

19 (f) A county attorney ~~shall have the authority to~~ may
 20 administer oaths and affirmations, subpoena witnesses,
 21 compel their attendance, take evidence, and require the
 22 production of any books, correspondence, memoranda, bank
 23 account statements of a political committee or candidate, or
 24 other records which are relevant or material for the purpose
 25 of conducting any investigation pursuant to the provisions

1 of Title 23, R.C.M. 1947 or Title 37."

2 ~~Section 66. Section 23-4789, R.C.M. 1947, is amended~~
 3 ~~to read as follows:~~

4 ~~"23-4789. Right to inspect current accounts and~~
 5 ~~reports. Every individual shall have the right to inspect~~
 6 ~~any report or current account that must be kept or filed~~
 7 ~~pursuant to the provisions of Title 23, R.C.M. 1947 or Title~~
 8 ~~37, but only if such inspection will occur during reasonable~~
 9 ~~office hours and in such a manner that normal office~~
 10 ~~functions will not be unnecessarily interrupted."~~

11 Section 66. Section 23-4794, R.C.M. 1947, is amended
 12 to read as follows:

13 "23-4794. Secretary of state ~~must to~~ furnish copies of
 14 ~~this act~~ certain election laws to appropriate officials. The
 15 secretary of state shall, at the expense of the state,
 16 furnish the county clerk, and the city and town clerk, with
 17 copies of Title 23, chapter 47, R.C.M. 1947 the election
 18 laws relating to penalties, campaign practices, campaign
 19 finances, and contests. The public official with whom a
 20 candidate files a declaration or certificate of nomination
 21 shall transmit ~~a copy of Title 23, chapter 47, R.C.M. 1947~~
 22 one of these copies to the candidate. Such copies shall
 23 also be furnished to any other person required to file a
 24 statement. Upon his own information, or at the written
 25 request of any voter, the secretary of state shall provide a

1 copy of ~~Title 23, Chapter 47, B.C.S. 1947~~, to any other
 2 individual who may be a candidate, or who may otherwise be
 3 required to make a statement required by ~~this act~~ Title 23
 4 or Title 37."

5 Section 67. Section 23-4795, B.C.S. 1947, is amended
 6 to read as follows:

7 "23-4795. Limitation on contributions. (1) Aggregate
 8 contributions for all elections in a campaign by an
 9 individual, other than the candidate, to a candidate and
 10 political committees organized on his behalf ~~other than the~~
 11 ~~candidate and his immediate family~~ are limited as follows:

12 (a) for candidates filed jointly for the office of
 13 governor and lieutenant governor, not to exceed ~~fifteen~~
 14 ~~hundred dollars~~ ~~(\$1,500)~~;

15 (b) for a candidate to be elected for state office in
 16 a statewide election, other than the candidates for governor
 17 and lieutenant governor, not to exceed ~~seven-hundred-fifty~~
 18 ~~dollars~~ ~~(\$750)~~;

19 (c) for a candidate for public service ~~commissioner~~
 20 ~~commissioner~~, not to exceed ~~four-hundred-dollars~~ ~~(\$400)~~;

21 (d) for a candidate for district court judge, not to
 22 exceed ~~three-hundred-dollars~~ ~~(\$300)~~;

23 (e) for a candidate for the legislature, not to exceed
 24 ~~two-hundred-fifty-dollars~~ ~~(\$250)~~; and

25 (f) for a candidate for city or county office, not to

1 exceed ~~two-hundred-dollars~~ ~~(\$200)~~.

2 (2) An independent committee means a committee which
 3 is not organized on behalf of a candidate or which is not
 4 controlled either directly or indirectly by a candidate or
 5 candidate's committee, and which does not act jointly with a
 6 candidate or candidate's committee in conjunction with the
 7 making of expenditures or accepting contributions. For the
 8 purpose of limitation on contributions, political party
 9 organizations are independent committees. Aggregate
 10 contributions by an independent committee to a candidate and
 11 political committees organized on his behalf for all
 12 elections in a campaign are limited as follows:

13 (a) for candidates filed jointly for the offices of
 14 governor and lieutenant governor, not to exceed ~~eight~~
 15 ~~thousand-dollars~~ ~~(\$8,000)~~;

16 (b) for a candidate to be elected for state office in
 17 a statewide election, other than the candidates for governor
 18 and lieutenant governor, not to exceed ~~two-thousand-dollars~~
 19 ~~(\$2,000)~~;

20 (c) for a candidate for public service commissioner,
 21 not to exceed ~~one-thousand-dollars~~ ~~(\$1,000)~~;

22 (d) for a candidate for district court judge, not to
 23 exceed ~~two-hundred-fifty-dollars~~ ~~(\$250)~~;

24 (e) for a candidate for the legislature, not to exceed
 25 ~~two-hundred-fifty-dollars~~ ~~(\$250)~~;

1 (f) for a candidate for city or county office, not to
2 exceed two hundred dollars (\$200).

3 ~~(3) (a) Aggregate contributions by a candidate and his~~
4 ~~immediate family to his own candidacy and committees~~
5 ~~organized on his behalf are limited for all elections in a~~
6 ~~campaign as follows:~~

7 ~~(i) for a candidate to be elected for state office in~~
8 ~~a statewide election, other than the candidates for governor~~
9 ~~and lieutenant governor, not to exceed six thousand dollars~~
10 ~~(\$6,000);~~

11 ~~(ii) for candidates filed jointly for the offices of~~
12 ~~governor and lieutenant governor, not to exceed nine~~
13 ~~thousand dollars (\$9,000) to both candidates combined;~~

14 ~~(iii) for a candidate for state district office,~~
15 ~~including but not limited to candidates for the state~~
16 ~~senate, public service commission and district court judge,~~
17 ~~not to exceed one thousand dollars (\$1,000) in all elections~~
18 ~~in a campaign;~~

19 ~~(iv) for candidates for the state house of~~
20 ~~representatives not to exceed five hundred dollars (\$500) in~~
21 ~~all elections in a campaign; and~~

22 ~~(v) for a candidate for city or county office, not to~~
23 ~~exceed three hundred dollars (\$300) in all elections in a~~
24 ~~campaign.~~

25 ~~(b) As used in this section, a candidate's immediate~~

1 ~~family means the candidate's spouse, and the ascendants,~~
2 ~~descendants, brothers and sisters of the candidate and his~~
3 ~~spouse, and their spouses.~~

4 ~~(4) (3)~~ The limitations imposed by this section do not
5 apply to public funds contributed to a candidate under any
6 public financing provision of this code."

7 Section 68. Section 37-101, E.C.M. 1947, is amended to
8 read as follows:

9 "37-101. Form of petition for referendum. The
10 following shall be substantially the form of petition for
11 the referendum to the people on any act passed by the
12 legislative assembly legislature of the state of Montana:

13 Warning, FURNING

14 Any person signing any name other than his own to this
15 petition, or signing the same more than once for the same
16 measure at one election, or who is not, at the time of
17 signing the same, a qualified elector of this state, is
18 punishable by a fine of not exceeding five hundred dollars
19 (\$500), or imprisonment in the penitentiary not exceeding
20 two years, or by both such fine and imprisonment county jail
21 for a term not to exceed 6 months, or both, or imprisonment
22 in the state prison for a term not to exceed 10 years.

23 Petition for referendum.

24 To the Honorable . . . , Secretary of State of the state
25 of Montana:

1 We, the undersigned citizens and qualified electors of
 2 the state of Montana, respectfully order that Senate (House)
 3 Bill Number, entitled (title of act), passed by the
 4 ~~legislative assembly~~ legislature of the state of
 5 Montana, at the regular (special) session of said
 6 ~~legislative assembly~~, shall the legislature be referred to
 7 the people of the state for their approval or rejection, at
 8 the ~~regular~~, general, or special election to be held on the
 9 day of, 19.., and each for himself says: I have
 10 personally signed this petition; I am a qualified elector of
 11 the state of Montana; and my residence, post-office address,
 12 legislative representative district number, and voting
 13 precinct are correctly written after my name.

14 Name Residence
 15 Post-office address
 16 If in city, street and number
 17 Legislative representative district number
 18 Voting precinct

19 (Here follow numbered lines for signatures.)"

20 Section 69. Section 37-102, R.C.M. 1947, is amended to
 21 read as follows:

22 "37-102. Form of petition for initiative. (1) The
 23 following shall be substantially the form of petition for
 24 any law of the state of Montana proposed by the initiative:

25 ~~Warning~~ **WARNING**

1 Any person signing any name other than his own to this
 2 petition, or signing the same more than once for the same
 3 measure at one election, or who is not, at the time of
 4 signing the same, a qualified elector of this state, is
 5 punishable by a fine not exceeding ~~five hundred dollars~~
 6 ~~(\$500)~~, or imprisonment in the ~~penitentiary not exceeding~~
 7 ~~two years~~, or by both such fine and imprisonment county jail
 8 for a term not to exceed 6 months, or both, or imprisonment
 9 in the state prison for a term not to exceed 10 years.

10 Petition for Initiative.

11 To the Honorable, Secretary of State of the ~~State~~
 12 state of Montana:

13 We, the undersigned qualified electors of the state of
 14 Montana, respectfully demand that the following proposed law
 15 shall be submitted to the qualified electors of the state of
 16 Montana, for their approval or rejection, at the ~~regular~~,
 17 general, or special election to be held on the day of
 18, 19.., and each for himself says:

19 I have personally signed this petition, and my
 20 residence, post-office address, legislative representative
 21 district, and voting precinct are correctly written after my
 22 name.

23 Name Residence.....
 24 Post-office address.....
 25 If in city, street and number.....

1 Legislative representative district.....
2 Voting precinct.....

3 (Numbered lines for names on each sheet.)

4 (2) Every ~~such~~ sheet for petitioner's signature shall
5 be attached to a full and correct copy of the title and text
6 of the measure so proposed by initiative petition; but ~~such~~
7 the petition may be filed with the secretary of state in
8 numbered sections, for convenience in handling, and
9 referendum petitions may be filed in sections in like
10 manner."

11 Section 70. Section 37-201, R.C.M. 1947, is amended to
12 read as follows:

13 "37-201. Form for people's initiative petition on the
14 question of calling a constitutional convention. The
15 following shall be substantially the form for the people's
16 initiative petition on the question of calling a
17 constitutional convention:

18 WARNING

19 Any person signing any name other than his own to this
20 petition, or signing the same more than once for the same
21 measure at one election, or who is not, at the time of
22 signing the same, a qualified elector of this state, is
23 punishable by a fine not exceeding ~~five hundred dollars~~
24 ~~(\$500)~~, or imprisonment in the penitentiary ~~not exceeding~~
25 ~~two (2) years, or by both, (Section 37-105, Revised Codes of~~

1 ~~Montana, 1947) county jail for a term not to exceed 6~~
2 ~~months, or both, or imprisonment in the state prison for a~~
3 ~~term not to exceed 10 years.~~

4 PEOPLE'S INITIATIVE PETITION
5 ON THE QUESTION OF CALLING
6 A CONSTITUTIONAL CONVENTION

7 To the Honorable, Secretary of State of the state
8 of Montana:

9 We, the undersigned qualified electors of the state of
10 Montana, respectfully request that the question of whether
11 there shall be an unlimited convention to revise, alter, or
12 amend the constitution be submitted to the qualified
13 electors of the state of Montana for their approval or
14 rejection at the general election to be held on the day
15 of, 19.., and each qualified elector says for himself:

16 I have personally signed this petition, and my
17 residence, ~~post-office~~ post-office address, and voting
18 precinct are correctly written after my name.

19 Name Residence
20 ~~Post-Office~~ Post-office Address
21 If in city, street and number
22 Voting precinct Representative Dist. No.

23 (Each sheet shall be in substantially the form above and
24 contain numbered lines for names.)"

25 Section 71. Section 37-202, R.C.M. 1947, is amended to

1 read as follows:

2 "37-202. Form for people's initiative petition for
3 constitutional amendment. The following shall be
4 substantially the form for people's initiative petition for
5 constitutional amendment:

6 WARNING

7 Any person signing any name other than his own to this
8 petition, or signing the same more than once for the same
9 measure at one election, or who is not, at the time of
10 signing the same, a qualified elector of this state, is
11 punishable by a fine not exceeding ~~five hundred dollars~~
12 ~~(\$500), or imprisonment in the penitentiary not exceeding~~
13 ~~two (2) years, or by both. (Section 37-103, Revised Codes of~~
14 ~~Montana, 1947) county jail for a term not to exceed 6~~
15 ~~months, or both, or imprisonment in the state prison for a~~
16 ~~term not to exceed 10 years.~~

17 PEOPLE'S INITIATIVE PETITION
18 FOR CONSTITUTIONAL AMENDMENT

19 To the Honorable, Secretary of State of the state
20 of Montana:

21 We, the undersigned qualified electors of the state of
22 Montana, respectfully request that the following proposed
23 constitutional amendment shall be submitted to the qualified
24 electors of the state of Montana, for their approval or
25 rejection, at the statewide election to be held on the ...

1 day of, 19..., and each qualified elector says for
2 himself:

3 I have personally signed this petition, and my
4 residence, ~~post-office~~ post-office address, and voting
5 precinct are correctly written after my name.

6 Name Residence
7 ~~Post-Office~~ Post-office Address
8 If in city, street and number
9 Voting precinct Representative Dist. No.

10 {Each sheet for petitioner's signature shall be in
11 substantially the form above and contain numbered lines for
12 names. A full and correct copy of the title and text of the
13 proposed constitutional amendment shall be included in or
14 attached to each sheet of the petition.)*

15 Section 72. Section 37-103, R.C.M. 1947, is amended to
16 read as follows:

17 "37-103. County clerk to verify signatures. (1) The
18 county clerk of each county in which any ~~such~~ petition for
19 initiative or referendum ~~shall be~~ is signed shall compare
20 the signatures of the electors signing the same with their
21 signatures on the registration books and blanks on file in
22 his office, for the preceding general election, and shall
23 thereupon attach to the sheets of ~~said~~ the petition
24 containing ~~such~~ the signatures his certificate to the
25 secretary of state, substantially as follows:

1 State of Montana, County of

2 To the Honorable, Secretary of State for Montana:

3 I,, county clerk of the county of, hereby

4 certify that I have compared the signatures on (number of

5 sheets) of the referendum (initiative) petition, attached

6 hereto, with the signatures of said electors as they appear

7 on the registration books and blanks in my office; and I

8 ~~believe that the signatures of (names of signers), numbering~~

9 ~~(number of genuine signatures in each whole or partial~~

10 ~~legislative representative district lying within the county~~

11 ~~boundaries), are genuine. As to the remainder of the~~

12 ~~signatures thereon, I believe that they are not genuine, for~~

13 ~~the reason that, and I further certify that~~

14 ~~the following names (.....) do not appear on the registration~~

15 ~~books and blanks in my office certify that the signatures of~~

16 ~~..... (number) signers are genuine and are marked thus on~~

17 ~~the petition, and I further certify that~~

18 ~~..... (number) signers marked thus on the petition~~

19 ~~..... do not appear on the registration books and~~

20 ~~blanks in my office.~~

21 Signed:

22, County Clerk.

23 (Seal of Office) By

24 Deputy

25 (2) Every such Each certificate ~~shall be is~~ prima

1 facie evidence of the facts stated therein, and of the

2 qualifications of the electors whose signatures are thus

3 certified to be genuine, and the secretary of state shall

4 consider and count only ~~such those~~ signatures on ~~each the~~

5 petitions as ~~shall be are~~ so certified by ~~said the~~ county

6 clerks to be genuine, ~~provided, that the The~~ secretary of

7 state may consider and count such of the remaining

8 signatures as may be proved to be genuine, ~~and that whenever~~

9 the parties so signing were legally qualified to sign such

10 petitions, ~~and but~~ the official certificate of a notary

11 public of the county in which the signer resides ~~shall be is~~

12 required as to the fact for each of ~~such the~~ last-named

13 signatures, ~~and the The~~ secretary of state shall further

14 compare and verify the official signatures and seals of all

15 notaries so certifying with their signatures and seals filed

16 in his office. Such notaries' certificate shall be

17 substantially in the following form:

18 State of Montana, ss.

19 County of

20 I,, a duly qualified and acting notary public in

21 and for the above-named county and state, do hereby certify:

22 that I am personally acquainted with each of the following

23 named electors whose signatures are affixed to the annexed

24 petition, and I know of my own knowledge that they are

25 qualified electors of the state of Montana, and of the

1 county, legislative representative districts, and precincts
 2 written after their several names in the annexed petition,
 3 and that their residence and post-office address is
 4 correctly stated therein, to wit: (Names of such electors.)

5 In Testimony Whereof, I have hereunto set my hand and
 6 official seal this day of, 19...

7 Notary Public, in and for County,
 8 State of Montana.

9 (3) The county clerk ~~shall~~ may not retain in his
 10 possession any such petition, or any part thereof, for a
 11 longer period than ~~two~~ 2 days for the first ~~two hundred~~ 200
 12 signatures thereon, and ~~one~~ 1 additional day for each ~~two~~
 13 ~~hundred~~ 200 additional signatures, or fraction thereof, on
 14 the sheets presented to him, and at the expiration of such
 15 time he shall forward the same to the secretary of state,
 16 with his certificate attached thereto, as above provided.
 17 The forms herein given are not mandatory, and if
 18 substantially followed in any petition, ~~it shall~~ will be
 19 sufficient, disregarding clerical and ~~serely~~ technical
 20 errors."

21 Section 73. Section 37-104.1, R.C.M. 1947, is amended
 22 to read as follows:

23 "~~37-104.1. Attorney general's summary of referred or~~
 24 ~~initiative measures statement by secretary of state for~~
 25 ~~referendum measures placement on ballot~~ Statements by

1 ~~attorney general and secretary of state.~~ The secretary of
 2 state ~~of the state of Montana~~ prior to certifying and
 3 numbering of a referendum, initiative, or constitutional
 4 amendment to the several counties of Montana as provided by
 5 ~~sections 37-105 and 23-1402 [23-3506] of the Revised Codes~~
 6 ~~of Montana, 1947,~~ shall transmit a copy of the measure to be
 7 voted upon to the attorney general ~~of Montana.~~ Within ~~ten~~
 8 ~~(10)~~ days after the measure is filed with him, the attorney
 9 general shall provide and return to the secretary of state a
 10 statement in ordinary plain language explaining in not more
 11 than ~~one hundred~~ ~~(100)~~ words the general purpose of the
 12 measure submitted. In the case of referendum measures, the
 13 secretary of state shall prepare a statement setting forth
 14 the vote by which the referendum passed each house of the
 15 ~~legislative assembly~~ legislature. The statement by the
 16 secretary of state shall precede the attorney general's
 17 statement on the printed form. The statement as prepared by
 18 the attorney general, and the statement of the secretary of
 19 state for referendum measures only, shall be in addition to
 20 the legislative title of the measure, On the printing of
 21 the ballot the statement of the secretary of state for
 22 referendum measures only and the statement of the attorney
 23 general shall precede the other title of the measure. In
 24 providing the statement, the attorney general shall give a
 25 true and impartial statement of the purpose of the measure

1 in plain, easily understood language and in such manner as
2 shall is not be an argument or likely to create prejudice
3 either for or against the measure."

4 Section 74. There is a new R.C.M. section that reads
5 as follows:

6 Informational pamphlets. (1) Whenever a ballot issue is
7 to be submitted to the people, the secretary of state shall
8 have printed pamphlets containing the information specified
9 in 37-107.

10 (2) Whenever more than one ballot issue is to be voted
11 on at a single election, the secretary of state may publish
12 a single pamphlet for all of the ballot issues.

13 (3) The pamphlets are to be distributed as provided in
14 37-107.

15 ~~Section 75. Section 37-107, R.C.M., 1947, is amended to~~
16 ~~read as follows:~~

17 ~~"37-107. Printing and distribution of measures~~
18 ~~Preparation of pamphlets. (1) The secretary of state shall~~
19 ~~furnish to the department of administration a copy of each~~
20 ~~of the proposed measures to be submitted to the people, and~~
21 ~~make requisition on the department of administration, for~~
22 ~~the printing and delivery to him of pamphlets for all~~
23 ~~proposed constitutional amendments, initiative, and~~
24 ~~referendum measures to be submitted to a vote of the people.~~

25 ~~(2) The department of administration, shall, no later~~

1 ~~than five (5) weeks before any general or special election,~~
2 ~~at which any proposed law is to be submitted to the people,~~
3 ~~have printed a true copy of the title and text of each~~
4 ~~measure to be submitted, with the number and form in which~~
5 ~~the question will be printed on the official ballot. The~~
6 ~~department of administration shall call for bids and~~
7 ~~contract with the lowest responsible bidder for the printing~~
8 ~~of pamphlets containing the proposed law to be submitted to~~
9 ~~the people.~~

10 ~~(3) The proposed law to be submitted shall be printed~~
11 ~~and forwarded to the county clerk and recorder of each~~
12 ~~county.~~

13 ~~(4) The number of proposed measures pamphlets to be~~
14 ~~printed shall be at least five per cent (5%) more than the~~
15 ~~number of qualified electors, as shown by the registration~~
16 ~~lists of the several counties of the state at the last~~
17 ~~preceding general election.~~

18 ~~(5) The information to be printed shall be printed in~~
19 ~~the following order as applicable:~~

20 ~~(a) the statement of the secretary of state;~~

21 ~~(b) the statement of the attorney general;~~

22 ~~(c) the title and body of the proposed measure;~~

23 ~~(d) the exact text of the constitutional provision to~~
24 ~~be revised;~~

25 ~~(d) (e) the manner in which the measure will appear on~~

1 ~~the ballot;~~
 2 ~~(e) (f) the argument advocating approval of the~~
 3 ~~measure;~~
 4 ~~(f) (g) the argument advocating rejection of the~~
 5 ~~measure;~~
 6 ~~(g) (h) the argument rebutting the argument advocating~~
 7 ~~approval; and~~
 8 ~~(h) (i) the argument rebutting the argument advocating~~
 9 ~~rejection.~~
 10 ~~(6) The secretary of state shall distribute to each~~
 11 ~~county clerk, no later than four (4) weeks before the~~
 12 ~~election at which the proposed measure(s) will be voted~~
 13 ~~upon, a sufficient number of pamphlets to furnish one copy~~
 14 ~~to every voter in his county. Each county clerk shall mail~~
 15 ~~to each registered voter in the county at least one copy of~~
 16 ~~the pamphlet within two (2) weeks from the date of his~~
 17 ~~receipt of the pamphlets from the secretary of state.~~"

18 Section 75. Severability. If a part of this act is
 19 invalid, all valid parts that are severable from the invalid
 20 part remain in effect. If a part of this act is invalid in
 21 one or more of its applications, the part remains in effect
 22 in all valid applications that are severable from the
 23 invalid applications.

24 Section 76. Repealer. Sections 23-3021, 23-3030, and
 25 23-4404, R.C.M. 1947, are repealed.

-End-