Senate Bill 97

In The Senate

Introduced and referred January 12, 1981 to Committee on Agriculture, Livestock and Irrigation. February 2, 1981 Committee recommend bill do pass as amended. Bill printed and placed February 3, 1981 on members' desks. February 4, 1981 Second reading do pass. February 5, 1981 Correctly engrossed. February 6, 1981 Third reading passed. In The House February 7, 1981 Introduced and referred to Committee on Local Government. April 23, 1981 Died in Committee.

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INTRODUCED BY Etchart BILL NO. 27 1 2

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE ANNUAL 4 5 FLECTIONS OF IRRIGATION DISTRICTS AND DRAINAGE DISTRICTS 6 FROM THE CONSOLIDATING PROVISIONS OF TITLE 13; TO PROVIDE 7 THAT SUCH ELECTIONS BE HELD ON THE FIRST TUESDAY IN APRIL BE б EACH YEAR; TO PROVIDE THAT SUCH ELECTIONS BE CONDUCTED IN 9 THE MANNER PRESCRIBED BY LAW BEFORE THE 1979 REVISION AND CONSOLIDATION OF THE GENERAL ELECTION LAWS OF MONTANA: 10 11 AMENDING SECTIONS 13-1-104, 85-7-1702, 85-7-1710, AND 12 85-8-302 THROUGH 85-8-305, MCA."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 Section 1. Section 13-1-104, MCA, is amended to read: 16 "13-1-104. Times for holding general elections. (1) A 17 general election shall be held throughout the state in every 12 even-numbered year on the first Tuesday after the first 19 Monday of November to elect federal officers, state or 20 multicounty district officers, members of the legislature. 21 judges of the district court, and county officers when the 22 tarms of such offices will expire before the next scheduled 23 election for the offices or when one of the offices must be 24 filled for an unexpired term as provided by law.

25 {2} A general election shall be held throughout the

1 state in every odd-numbered year on the first Tuesday after 2 the first Monday in November to elect municipal officers, 3 officers of political subdivisions whelly within one county. except\_those\_political\_subdivisions\_otherwise\_provided\_for 4 5 in subsection (41, and any other officers specified by law for election in odd-numbered years when the term for the 6 7 offices will expire before the next scheduled election for 8 the offices or when one of the offices must be filled for an 9 unexpired term as provided by law.

10 (3) The general election for any political subdivision 11 required to hold elections annually shall be held with the 12 general election provided for in subsections (1) and (2): 13 except\_those\_political\_subdivisions\_otherwise\_provided\_for 14 in subsection (4). If a primary election is necessary, it 15 shall be held at the same time as the primary provided for 16 the regular general election for that year. 17 141 The general election for irrigation districts and 18 drainage\_districts\_shall\_\_be\_\_held\_\_appually\_\_on\_\_the\_\_first

19 Iuesday\_in\_April\_of\_each\_year.\*\*

Section 2. Section 85-7-1702, MCA, is amended to read:
 #85-7-1702. Regular election -- term of office. The
 regular election for commissioners in each district shall be

held annually in-accordance-with-13-1-104y-and <u>on\_the\_first</u>
<u>Iuesday\_in\_Aprile\_within\_Within</u> 40 days following their
election the commissioners shall meet and organize as a

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1 board by electing a president from their number and a 2 secretary, who may or may not be a commissioner, and who З shall each hold office during the pleasure of the board. The term of office of each commissioner shall begin on the date 4 5 of the organizational meeting after the regular election and 6 shall continue for 3 years and until the election and 7 qualification of his successor. Commissioners are elected by 8 the electors of the entire district."

<u>NEH\_SECTION</u> Section 3. Election precincts. (1) The
 board of commissioners, within 5 months after organization
 of the district, shall divide the district into one or more
 election precincts.

13 (2) The board of commissioners may change the 14 boundaries of the election precincts of the district 15 whenever the best interests of the district and the 16 convenience of the electors would be served by such a 17 change. No such change may be made less than 30 days before 18 any election to be held in the district. To be effective, 19 such a change must be approved by the district court. In making such changes, the several precincts of the district 20 21 shall be kept as nearly equal in area and population as 22 practicable.

<u>NEW SECTION</u> Section 4. Election notice and election
 officers. Fifteen days before any election held under this
 part, the secretary of the board of commissioners shall post

notices of the time and places of holding the election in 1 three public places in each election precinct and in the 2 3 office of the board. Prior to the time for posting notices. 4 the poard, by a resolution or order entered on their 5 records, shall designate the house or place within each 5 precinct where the election will be held and shall appoint 7 for each precinct, from the electors thereof, three judges, ő who will constitute a board of election for such precinct. The judges of each precinct shall appoint one of their 9 10 number to act as clerk. If the board of commissioners fails 11 to appoint a board of election or the members appointed do 12 not attend at the opening of the polls on the morning of 13 election, the electors of the precinct present at that hour 14 may appoint the board of election or supply the place of any 15 absent member. The board of commissioners shall prescribe the forms and provide for the printing and distribution of 16 the ballots for all elections held under this part. 17

18 NEW\_SECTION. Section 5. Baths of election officers. 19 The judges may administer all oaths required in the progress of an election and appoint judges and clerks if, during the 20 progress of election, any judge or clerk ceases to act. Any 21 22 member of the board of election may administer and certify 23 oaths required to be administered during the progress of an election. Before opening the polls, each member of the board 24 25 of election must take and subscribe an oath faithfully to

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perform the duties imposed upon him by law. Any elector of
 the precinct may administer and certify any such oath.

NEW SECTION. Section 6. Conduct of election. (1) Any 3 election held under this part must be conducted, except as 4 otherwise provided, as nearly as practicable in accordance 5 6 with the provisions of the general election laws of this 7 state, except that no registration of electors is required. 8 (2) As soon as all the votes are counted, a 9 certificate must be attached to each of the papers 10 containing the poll list and tallies, stating the number of 11 votes cast for each candidate or for each proposition and 12 designating the office or proposition voted for. Each 13 certificate must be signed by the clerk and judges.

(3) The ballots, together with the certificates and 14 15 the attached poll list and tallies, must be sealed by the judges and clerk, endorsed as the election returns of the 16 17 precinct, and delivered to the secretary of the board of 18 commissioners by the judges or some other safe and 19 responsible carrier. The ballots must be kept by the board 20 of commissioners in the same manner as ballets are kept in 21 other elections.

22 <u>NEW SECTION</u>. Section 7. Canvass. No poll list, tally 23 paper, or certificate returned from any election may be set 24 aside or rejected merely for want of form, if it can be 25 satisfactorily understood. The board of commissioners of the

district shall meet on the first Monday after the election 1 to canvass the returns. If, at the time of the meeting, the 2 3 returns have been received from each precinct in the district in which the polls were opened, the board shall 4 5 proceed to canvass the returns. If all the returns have not been received, the canvass must be postponed from day to day 6 7 until all the returns have been received. The canvass must be made in public. The board shall declare elected the я 9 person receiving the highest number of votes for each office 10 and also declare the result of the vote on any question 11 submitted.

12 <u>NEW\_SECTION:</u> Section 8. Statement of election 13 results. (1) The secretary of the board of commissioners, as 14 soon as the result of any election held under the provisions 15 of this part is declared, shall enter in the records of the 16 board and file with the county election administrator the 17 following statement of the results:

16 (a) a copy of the election notice and proof of posting
19 the same;

20 (b) the names of the judges and clerks of the21 election;

22 (c) the whole number of votes cast in the district and

- 23 in each precinct of the district;
- 24 (d) the names of the persons voted for;
- 25 (e) the offices to be filled by the election;

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(f) the number of votes given in each precinct for
 each person;

3 (g) the number of votes given in the district for each4 person;

(n) the names of the persons declared elected;

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6 (i) the proposition of propositions submitted, the7 vote for and against each, and the result of the vote.

8 (2) The secretary shall immediately complete and
9 deliver to each person elected a certificate of election,
10 signed by him and authenticated with the seal of the
11 district.

12 NEW SECTION. Section 9. Nominations. (1) Candidates 13 for the office of commissioner to be filled by election 14 under the provisions of this part may be nominated by 15 petition filed with the secretary of the board of commissioners of the district at least 10 days prior to the 16 17 election and signed by not less than five electors of the 16 district. The petition shall specify the respective 19 divisions for which the nominees are candidates. The names 20 of all candidates for each division of the district must be 21 printed on the same ballot.

(2) If no nominations are made, the electors of the
district shall write on the ballots the names of the persons
for whom they desire to vote for commissioners. Nothing
prevents an elector from voting for any qualified person

although the name does not appear on the official ballots.
 Section 10. Section 85-7-1710, MCA, is amended to
 read:

4 "85-7-1710. Qualification of electors and nature of 5 voting rights. (1) At all elections neld under the 6 provisions of this part, except as otherwise expressly 7 provided, the following holders of title or evidence of 8 title to lands within the district, herein designated 9 electors, are entitled to vote:

(a) all individuals having the qualifications of
electors under the constitution and general end--school
election laws of the state
electors may be required;

14 (b) guardians, executors, administrators, and trustees15 residing in the state;

16 (c) domestic corporations, by their duly authorized 17 agents.

(2) In all elections held under this part, each 18 elector is permitted to cast one vote for each 40 acres of 19 irrigable land or major fraction thereof owned by the 20 21 elector within the district, irrespective of the location of the irrigable lands within the tracts designated by the 22 commissioners for assessment and taxation purposes or within 23 congressional subdivisions, platted lots or blocks (except 24 25 as hereinafter provided for), election precincts, or

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district divisions, but any elector owning any less than 40 acres of irrigable land is entitled to one vote. Until the irrigable area under the proposed plan of reclamation is determined, all land included within the boundaries of the district shall be considered irrigable land for election purposes.

(3) Whenever land is owned by co-owners, the owners 7 8 may designate one of their number or an agent to cast the 9 vote for the owners, and one vote only for each 40 acres of 10 irrigable land or major fraction thereof may be cast by the 11 voting co-owner or agent. Whenever land is under contract of 12 sale to a purchaser residing within the state, the purchaser 13 may vote on behalf of the owner of the land. When voting, 14 the agent of a corporation or co-owners, the co-owner 15 designated for purpose of voting, or the purchaser of land 15 under contract of sale, as the case may be, shall file with 17 the secretary of the district or with the election officials 18 a written instrument of his authority; executed and 19 acknowledged by the proper officers of the corporation. by the computers, or by the owner of land under contract, of 20 21 sale, as the case may be, and thereupon the agent or 22 co-owner or purchaser, as the case may be, is an elector 23 within the meaning of this part. Whenever the total 24 irrigable acreage within any one district has been platted 25 or subdivided into lots or blocks to the extent of 5% or

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more of the total acreage of the district, each elector is 1 2 permitted to cast one vote for each acre of irrigable land 3 or major fraction thereof owned by the elector within the 4 district, irrespective of the location of such irrigable 5 lands within the tracts designated by the commissioners for assessment and taxation purposes or within the congressional 6 7 subdivisions, but any elector owning any less than 1 acre of 8 irrigable land within the district is entitled to one vote. 9 The balloting shall take place in the following manner: 10 10 votes or less, separate ballots will be used; more than 10 11 votes, the elector shall vote in blocks of 10 using one 12 ballot for each 10 votes and separate ballots for odd votes 13 over multiples of 10. The election shall otherwise conform 14 with the provisions of Fitle-13 [section\_6]." 15 Section 11. Section 85-8-302, MCA, is amended to read:

16 \*85-8-302. Election of commissioners -- regular term 17 of office. (1) The regular election of commissioners shall 18 be held annually in-accordance-with-13-1-104 on the first 19 **Tuesday in April.** The term of office of commissioners shall 20 commence on the first Monday <u>Tuesday</u> in <del>denuary <u>May</u></del> 21 following their election. At the first regular election 22 following the organization of a district and in districts 23 organized and in existence on March 1, 1921, and which, on 24 petition, have been divided into divisions, at the first 25 regular election following the date of the order making such

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1 division, there shall be elected three commissioners, one commissioner being elected from each division of which he 2 must be an actual landowner. Dne of the commissioners, to be З 4 detarmined by lot, shall hold office until the first Honday 5 Tuesday in denuary May in the year following his election; another of the commissioners, to be determined by lot, shall 6 hold office until the first Monday <u>Tuesday</u> in <del>denuery <u>May</u> in</del> 7 8 the second year following his election: and the third of the 9 commissioners shall hold office until the first Hendey Tuesday in Jenuery May in the third year following his 10 11 election. Thereafter one commissioner shall be elected each 12 year, who shall hold office for a term of 3 years and until 13 his successor is elected and qualified. The person elected 14 as a commissioner in each year to succeed the commissioner 15 whose term is then expiring must be elected as a 16 commissioner from the same division as the commissioner whom 17 he is to succeed.

18 {2} Each commissioner must be a resident of a county
19 where a portion of the district lands is situated."

20 Section 12. Section 85-8-303, MCA, is amended to read: 21 #85-8-303. Notice of election. Forty <u>Fifteen</u> days 22 before any regular election, the secretary of the board of 23 commissioners shall give notice by mail to all landowners 24 within the district of the time and place of holding the 25 election. <u>Prior to the mailing of such notices. the board</u>

1 shall\_designate\_a\_polling\_place\_and\_appoint\_three\_persons\_to 2 act as judges and clerks of election in each precipct. The з board shall prescribe the form and provide for the printing 4 of the ballots for all elections." 5 Section 13. Section 85-8-304, MCA. is amended to read: 6 "85-8-304. Results Conduct of election. (1) Any judge 7 of election may administer any eath required to be 8 administered\_during the progress of an election. Before the 9 opening of the polls the judges of election must take and 10 subscribe an path to faithfully perform the duties imposed 11 upon them by law. The oath may be administered by any 12 elector. 13 (2) Any election held under this part must be 14 conducted, except as otherwise provided, as nearly as 15 practicable in accordance with the provisions of the general 16 election\_laws\_of\_the\_state. except\_that\_no\_registration\_is 17 required. 18 (3) As soon as the polls are closed, the judges must 19 count and tabulate the votes cast and make out a 20 certificate. to be signed by theme showing the total number 21 of votes cast at the election and the total number cast for 22 each candidate for commissioner and shall deliver such 23 certificate, with a list of the electors voting at such 24 election. to the board of commissioners.

25 (4) The board of commissioners shall meet on the first

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1 Monday following the election and canvass the returns. The

#### 2 board\_shall\_declare\_elected\_the\_person\_or\_persons\_receiving

#### 3 the highest number of votes.

4 (5) The elerk secretary of the board of directors commissioners shall enter the result of the election in the 5 6 minutes of the board and file with the clerk of the district 7 court creating the district a statement showing the names of 8 the persons elected as commissionars, the names of the 9 commissioners whose term will expire on the first Monday 10 Tuesday in January May following, and the names of all of 11 the persons who will compose the board of directors 12 commissioners for the year next following the first Monday 13 Tuesday in Jonuery May."

Section 14. Section 85-8-305, HCA, is amended to read:
"85-8-305. Qualifications of electors. (1) At all such
elections, except as herein otherwise expressly provided,
the following persons holding title or evidence of title to
lands within the district shall be entitled to vote:

19 (a) all of the persons having the qualifications of 20 electors under the constitution and general <u>election</u> laws of 21 the state<u>r except that no registration of electors may be</u> 22 required;

(b) guardians, administrators, executors, and trustees
residing in the state;

25 (c) domestic corporations by their duly authorized

#### 1 agents.

2 (2) In all elections each elector shall be permitted 3 to cast one vote for each 40 acres of land or major fraction 4 thereof in the district owned by such elector, but any 5 elector owning 20 acres or less shall be entitled to one 6 vote."

7 Section 15. Codification instruction. Sections 3
8 through 9 are intended to be codified as an integral part of
9 Title 85, chapter 7, part 17, and the provisions of Title

10 85, chapter 7, part 17, apply to sections 3 through 9.

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#### 47th Legislature

#### SB 0097/02

Approved by Committee on Agriculture Livestock & Irrigation

# SENATE BILL NO. 97

#### INTRODUCED BY ETCHART

4 A BILL FOR AN ACT ENTITLED: "AN ACT TU REMOVE THE ANNUAL 5 ELECTIONS OF IRRIGATION DISTRICTS AND DRAINAGE DISTRICTS 6 FROM THE CONSOLIDATING PROVISIONS OF TITLE 13; TO PROVIDE THAT SUCH ELECTIONS BE HELD ON THE FIRST TUESDAY IN APRIL OF 7 EACH YEAR: TO PROVIDE THAT SUCH ELECTIONS BE CONDUCTED IN 8 9 THE MANNER PRESCRIBED BY LAW BEFORE THE 1979 REVISION AND CONSOLIDATION OF THE GENERAL ELECTION LAWS OF MONTANA; 10 AMENDING SECTIONS 13-1-104, 85-7-1702, 85-7-1710, AND 11 12 85-8-302 THROUGH 85-8-305, MCA.\*

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

Section 1. Section 13-1-104. MCA. is amended to read: 15 16 "13-1-104. Times for holding general elections. (1) A 17 general election shall be held throughout the state in every 18 even-numbered year on the first Tuesday after the first 19 Monday of November to elect federal officers, state or 20 multicounty district officers, members of the legislature, 21 judges of the district court, and county officers when the 22 terms of such offices will expire before the next scheduled 23 election for the offices or when one of the offices must be 24 filled for an unexpired term as provided by law.

25 (2) A general election shall be held throughout the

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1 state in every odd-numbered year on the first Tuesday after 2 the first Monday in November to elect municipal officers. 3 officers of political subdivisions wholly within one county, 4 except those political subdivisions otherwise provided for 5 in subsection [4], and any other officers specified by law for election in odd-numbered years when the term for the 6 7 offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an 8 9 unexpired term as provided by law.

10 (3) The general election for any political subdivision 11 required to hold elections annually shall be held with the 12 general election provided for in subsections (1) and (2)<u>\*</u> 13 <u>except those political subdivisions otherwise provided for</u> 14 <u>in\_subsection\_(4)</u>. If a primary election is necessary, it 15 shall be held at the same time as the primary provided for 16 the regular general election for that year.

17 <u>[4] The general election for irrigation districts and</u> 18 <u>drainage districts shall be held annually on the first</u> 19 <u>Tuesday in April of each year.</u>"

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1 board by electing a president from their number and a 2 secretary, who may or may not be a commissioner, and who 3 shall each hold office during the pleasure of the board. The 4 term of office of each commissioner shall begin on the date 5 of the organizational meeting after the regular election and 6 shall continue for 3 years and until the election and 7 qualification of his successor. Commissioners are elected by the electors of the entire district." B

<u>NEW\_SECTION</u>. Section 3. Election precincts. (1) The
board of commissioners. within 6 months after organization
of the district. shall divide the district into one or more
election precincts.

13 {2} The board of commissioners may change the 14 boundaries of the election precincts of the district 15 whenever the best interests of the district and the 16 convenience of the electors would be served by such a 17 change. No such change may be made less than 30 days before 18 any election to be held in the district. To be effective, 19 such a change must be approved by the district court. In 20 making such changes, the several precincts of the district 21 shall be kept as nearly equal in area and population as 22 practicable.

<u>NEW SECTION</u>. Section 4. Election notice and election
 officers. Fifteen days before any election held under this
 part. the secretary of the board of commissioners shall post

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z three public places in each election precinct and in the 3 office of the board. Prior to the time for posting notices. 4 the board, by a resolution or order entered on their 5 records, shall designate the house or place within each precinct where the election will be held and shall appoint 6 7 for each precinct, from the electors thereof, three judges, 8 who will constitute a board of election for such precinct. 9 The judges of each precinct shall appoint one of their 10 number to act as clerk. If the board of commissioners fails to appoint a board of election or the members appointed do 11 12 not attend at the opening of the polls on the morning of 13 election, the electors of the precinct present at that hour 14 may appoint the board of election or supply the place of any 15 absent member. The board of commissioners shall prescribe 16 the forms and provide for the printing and distribution of 17 the ballots for all elections held under this part.

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18 NEW SECTION. Section 5. Daths of election officers. 19 The judges may administer all oaths required in the progress 20 of an election and appoint judges and clerks if, during the 21 progress of election, any judge or clerk ceases to act. Any 22 member of the board of election may administer and certify 23 oaths required to be administered during the progress of an election. Before opening the polls, each member of the board 24 25 of election must take and subscribe an oath faithfully to

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perform the duties imposed upon him by law. Any elector of the precinct may administer and certify any such oath. <u>NEW SECTION</u>. Section 6. Conduct of election. (1) Any election held under this part must be conducted, except as otherwise provided, as nearly as practicable in accordance with the provisions of the general election laws of this state, except that no registration of electors is required. (2) As soon as all the votes are counted, a certificate must be attached to each of the papers containing the poll list and tallies, stating the number of votes cast for each candidate or for each proposition and designating the office or proposition voted for. Each certificate must be signed by the clerk and judges.

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14 (3) The ballots, together with the certificates and 15 the attached poll list and tallies, must be sealed by the 16 judges and clerk, endorsed as the election returns of the 17 precinct, and delivered to the secretary of the board of 18 commissioners by the judges or some other safe and 19 responsible carrier. The ballots must be kept by the board of commissioners in the same manner as ballots are kept in 20 21 other elections.

22 <u>NEW\_SECTION</u> Section 7. Canvass. No poll list, tally 23 paper. or certificate returned from any election may be set 24 aside or rejected merely for want of form, if it can be 25 satisfactorily understood. The board of commissioners of the

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1 district shall meet on the first Monday after the election 2 to canvass the returns. If, at the time of the meeting, the 3 returns have been received from each precinct in the 4 district in which the polls were opened, the board shall 5 proceed to canvass the returns. If all the returns have not 6 been received, the canvass must be postponed from day to day 7 until all the returns have been received. The canvass must 8 be made in public. The board shall declare elected the 9 person receiving the highest number of votes for each office and also declare the result of the vote on any question 10 11 submitted.

12 <u>NEW\_SECTION.</u> Section 8. Statement of election 13 results. (1) The secretary of the board of commissioners, as 14 soon as the result of any election held under the provisions 15 of this part is declared, shall enter in the records of the 16 board and file with the county election administrator the 17 following statement of the results:

18 (a) a copy of the election notice and proof of posting19 the same;

20 (b) the names of the judges and clerks of the 21 election;

22 (c) the whole number of votes cast in the district and 23 in each precinct of the district;

24 (d) the names of the persons voted for;

25 (e) the offices to be filled by the election;

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1 (f) the number of votes given in each precinct for 2 each person;

3 (g) the number of votes given in the district for each4 person;

5 (h) the names of the persons declared elected:

6 (i) the proposition of <u>OR</u> propositions submitted, the
7 vote for and against each, and the result of the vote.

8 (2) The secretary shall immediately complete and 9 deliver to each person elected a certificate of election, 10 signed by him and authenticated with the seal of the 11 district.

12 NEW\_SECTION. Section 9. Nominations. (1) Candidates 13 for the office of commissioner to be filled by election 14 under the provisions of this part may be nominated by 15 petition filed with the secretary of the board of 16 commissioners of the district at least 10 days prior to the election and signed by not less than five electors of the 17 18 district. The petition shall specify the respective 19 divisions for which the nominees are candidates. The names 20 of all candidates for each division of the district must be 21 printed on the same ballot.

(2) If no nominations are made, the electors of the
district shall write on the ballots the names of the persons
for whom they desire to vote for commissioners. Nothing
prevents an elector from voting for any qualified person

I although the name does not appear on the official vallets.
Section 10. Section 85-7-1710, MCA, is amended to
3 read:

4 \*85-7-1710. Qualification of electors and nature of 5 voting rights. (1) At all elections held under the 6 provisions of this part, except as otherwise expressly 7 provided, the following holders of title or evidence of 8 title to lands within the district, herein designated 9 electors, are entitled to vote:

10 (a) all individuals having the qualifications of
11 electors under the constitution and general and--school
12 election laws of the state, except that no registration of
13 electors may be required;

(b) guardians, executors, administrators, and trusteesresiding in the state;

16 (c) domestic corporations, by their duly authorized 17 agents.

(2) In all elections held under this part, each 18 elector is permitted to cast one vote for each 40 acres of 19 20 irrigable land or major fraction thereof owned by the 21 elector within the district, irrespective of the location of 22 the irrigable lands within the tracts designated by the 23 commissioners for assessment and taxation purposes or within congressional subdivisions, platted lots or blocks (except 24 25 as hereinafter provided for), election precincts, or

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district divisions, but any elector owning any less than 40 acres of irrigable land is entitled to one vote. Until the irrigable area under the proposed plan of reclamation is determined, all land included within the boundaries of the district shall be considered irrigable land for election purposes.

7 (3) Whenever land is owned by co-owners, the owners may designate one of their number or an agent to cast the 8 9 vote for the owners, and one vote only for each 40 acres of 10 irrigable land or major fraction thereof may be cast up the 11 voting co-owner or agent. Whenever land is under contract of 12 sale to a purchaser residing within the state, the purchaser 13 may vote on behalf of the owner of the land. When voting, the agent of a corporation or co-owners, the co-owner 14 designated for purpose of voting, or the purchaser of land 15 under contract of sale, as the case may be, shall file with 16 17 the secretary of the district or with the election officials 18 a written instrument of his authority, executed and 19 acknowledged by the proper officers of the corporation, by 20 the co-owners, or by the owner of land under contract of 21 sale, as the case may be, and thereupon the agent or 22 co-owner or purchaser, as the case may be, is an elector 23 within the meaning of this part. Whenever the total 24 irrigable acreage within any one district has been platted 25 or subdivided into lots or blocks to the extent of 5% or

1 more of the total acreage of the district, each elector is 2 permitted to cast one vote for each acre of irrigable land 3 or major fraction thereof owned by the elector within the district, irrespective of the location of such irrigable 4 5 lands within the tracts designated by the commissioners for assessment and taxation purposes or within the congressional 6 7 subdivisions, but any elector owning any less than 1 acre of B irrigable land within the district is entitled to one vote. 9 The balloting shall take place in the following manner: 10 10 votes or less, separate ballots will be used; more than 10 11 votes, the elector shall vote in blocks of 10 using one ballot for each 10 votes and separate ballots for odd votes 12 13 over multiples of 10. The election shall otherwise conform with the provisions of fitte-13 [section\_6]." 14

15 Section 11. Section 85-8-302, MCA, is amended to read: 16 "85-8-302. Election of commissioners -- regular term 17 of office. (1) The regular election of commissioners shall 18 be held annually in-accordance-with-13-1-184 on the first 19 Tuesday in April. The term of office of commissioners shall 20 commence on the first Monday Tuesday in January May 21 following their election. At the first regular election 22 following the organization of a district and in districts 23 organized and in existence on March 1+ 1921+ and which+ on 24 petition, have been divided into divisions, at the first regular election following the date of the order making such 25

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division, there shall be elected three commissioners, one 1 Ż commissioner being elected from each division of which he 3 must be an actual landowner. One of the commissioners, to be determined by lot. shall hold office until the first Honday 4 Tuesday in January May in the year following his election; 5 6 another of the commissioners, to be determined by lot, shall 7 hold office until the first Monday Tuesday in January May in the second year following his election; and the third of the 8 commissioners shall hold office until the first Monday 9 10 Tuesday in January May in the third year following his 11 election. Thereafter one commissioner shall be elected each 12 year: who shall hold office for a term of 3 years and until 13 his successor is elected and qualified. The person elected 14 as a commissioner in each year to succeed the commissioner 15 whose term is then expiring must be elected as a commissioner from the same division as the commissioner whom 16 17 he is to succeed.

18 (2) Each commissioner must be a resident of a county
19 where a portion of the district lands is situated."

20 Section 12. Section 85-8-303. MCA, is amended to read: 21 "85-8-303. Notice of election. Forty <u>Fifteen</u> days 22 before any regular election. the secretary of the board of 23 commissioners shall give notice by mail to all landowners 24 within the district of the time and place of holding the 25 election. <u>Prior to the mailing of such notices, the board</u>

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ı	<u>shall designate a polling place and appoint three persons to</u>
. 2	act as judges and clerks of election in each precinct. The
3	board shall prescribe the form and provide for the printing
4	of the ballots for all elections."
5	Section 13. Section 85-8-304, MCA, is amended to read:
6	"85-8-304. Results Conduct of election. (1) Any judge
7	of election may administer any oath required to be
8	administered_during the progress of an election, pefore the
9	opening of the polls the judges of election must take and
10	<u>subscribe an oath to faithfully perform the duties imposed</u>
11	upon them by law. The oath may be administered by any
12	elector.
13	(2) Any election held under this part must be
14	<u>conducted, except as otherwise provided, as nearly as</u>
15	practicable in accordance with the provisions of the general
16	<u>election_laws_of_the_state; except_that_no_registration_is</u>
17	<u>reguired.</u>
18	[3] As soon as the polls are closed the judges must
19	<u>count and tabulate the votes cast and make out a</u>
20	certificate, to be signed by them, showing the total number
21	of yotes cast at the election and the total number cast for
22	each candidate for commissioner and shall deliver such
23	certificate, with a list of the electors voting at such
24	election, to the board of commissioners.
25	(4) The board of commissioners shall meet on the first

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# Monday following the election and canvass the returns. The board\_shall\_declare\_elected\_the\_person\_or\_persons\_receiving the highest\_number\_of\_votes.

...

[5] The elerk secretary of the board of directors 4 5 commissioners shall enter the result of the election in the 6 minutes of the board and file with the clerk of the district 7 court creating the district a statement showing the names of 8 the persons elected as commissioners, the names of the 9 commissioners whose term will expire on the first Monday Tuesday in January Nay following, and the names of all of 10 11 the persons who will compose the board of directors 12 commissioners for the year next following the first Monday 13 Tuesday in January May."

Section 14. Section 85-8-305, MCA, is amended to read: \*85-8-305. Qualifications of electors. (1) At all such elections, except as herein otherwise expressly provided, the following persons holding title or evidence of title to lands within the district shall be entitled to vote:

(a) all of the persons having the qualifications of
electors under the constitution and general <u>election</u> laws of
the state<u>r except that no registration of electors may be</u>
required;

(b) guardians, administrators, executors, and trustees
residing in the state;

25 (c) domestic corporations by their duly authorized

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#### 1 agents.

2 (2) In all elections each elector shall be permitted 3 to cast one vote for each 40 acres of land or major fraction 4 thereof in the district owned by such elector, but any 5 elector owning 20 acres or less shall be entitled to one 6 vote."

7 Section 15. Codification instruction. Sections 3
8 through 9 are intended to be codified as an integral part of
9 Title 85. chapter 7. part 17. and the provisions of Title
10 85. chapter 7. part 17. apply to sections 3 through 9.

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# SENATE BILL NO. 97 INTRODUCED BY ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE ANNUAL 4 ELECTIONS OF IRRIGATION DISTRICTS AND DRAINAGE DISTRICTS 5 FROM THE CONSOLIDATING PROVISIONS OF TITLE 13; TO PROVIDE . 7 THAT SUCH ELECTIONS BE HELD ON THE FIRST TUESDAY IN APRIL OF EACH YEAR; TO PROVIDE THAT SUCH ELECTIONS BE CONDUCTED IN 8 THE MANNER PRESCRIBED BY LAW BEFORE THE 1979 REVISION AND 9 CONSOLIDATION OF THE GENERAL ELECTION LAWS OF MONTANA: 19 AMENDING SECTIONS 13-1-104, 85-7-1702, 85-7-1710, AND 11 12 85-8-302 THROUGH 85-8-305+ MCA.\*

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 Section 1. Section 13-1-104. MCA. is amended to read: 15 #13-1-104. Times for holding general elections. (1) A 16 general election shall be held throughout the state in every 17 even-numbered year on the first Juesday after the first 18 Monday of November to elect federal officers, state or 19 multicounty district officers, members of the legislature, 20 21 judges of the district court, and county officers when the 22 terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be 23 24 filled for an unexpired term as provided by law.

25 (2) A general election shall be held throughout the

1 state in every odd-numbered year on the first luesday after 2 the first Monday in November to elect municipal officers, 3 officers of political subdivisions wholly within one county. except those political subdivisions otherwise provided for 4 5 in subsection (4), and any other officers specified by law 6 for election in odd-numbered years when the term for the 7 offices will expire before the next scheduled election for 8 the offices or when one of the offices must be filled for an 9 unexpired term as provided by law.

10 (3) The general election for any political subdivision 11 required to hold elections annually shall be held with the 12 general election provided for in subsections (1) and (2). 13 except those political subdivisions otherwise provided for 14 in subsection (4). If a primary election is necessary, it 15 shall be held at the same time as the primary provided for 16 the regular general election for that year. 17 (4) The general election for irrigation districts and 18 drainage districts shall be held annually on the first 19 Tuesday in April of each year." 20 Section 2. Section 85-7-1702, MCA, is amended to read: 21 \*85-7-1702. Regular election -- term of office. The 22 regular election for commissioners in each district shall be 23 held annually in-accordance-with-13-1+104y-and on the first 24 Tuesday in April. within Hithin 40 days following their

25 election the commissioners shall meet and organize as a

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1 board by electing a president from their number and a 2 secretary, who may or may not be a commissioner, and who 3 shall each hold office during the pleasure of the board. The 4 term of office of each commissioner shall begin on the date 5 of the organizational meeting after the regular election and 6 shall continue for 3 years and until the election and 7 qualification of his successor. Commissioners are elected by 8 the electors of the entire district."

<u>NEW SECTION</u>. Section 3. Election precincts. (1) The
board of commissioners. within 6 months after organization
of the district, shall divide the district into one or more
election precincts.

13 (2) The board of commissioners may change the boundaries of the election precincts of the district 14 15 whenever the best interests of the district and the 16 convenience of the electors would be served by such a 17 change. No such change may be made less than 30 days before 18 any election to be held in the district. To be effective, such a change must be approved by the district court. In 19 making such changes, the several precincts of the district 20 21 shall be kept as nearly equal in area and population as 22 practicable.

<u>NEW\_SECTION</u>. Section 4. Election notice and election
 officers. Fifteen days before any election held under this
 part. the secretary of the board of commissioners shall post

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notices of the time and places of holding the election in 1 2 three public places in each election precinct and in the office of the board. Prior to the time for posting notices, 3 the board, by a resolution or order entered on their 5 records, shall designate the house or place within each precinct where the election will be held and shall appoint 6 7 for each precinct, from the electors thereof, three judges, 8 who will constitute a board of election for such precinct. The judges of each precinct shall appoint one of their 9 number to act as clerk. If the board of commissioners fails 10 11 to appoint a board of election or the members appointed do 12 not attend at the opening of the polls on the morning of 13 election. the electors of the precinct present at that hour 14 may appoint the board of election or supply the place of any 15 absent member. The board of commissioners shall prescribe the forms and provide for the printing and distribution of 16 17 the ballots for all elections held under this part.

NEW SECTION. Section 5. Daths of election officers. 18 19 The judges may administer all oaths required in the progress 20 of an election and appoint judges and clerks if, during the 21 progress of election, any judge or clerk ceases to act. Any member of the board of election may administer and certify 22 23 oaths required to be administered during the progress of an 24 election. Before opening the polls, each member of the board 25 of election must take and subscribe an oath faithfully to

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perform the duties imposed upon him by law. Any elector of
 the precinct may administer and certify any such oath.

3 <u>NEW SECTION</u>. Section 6. Conduct of election. (1) Any 4 election held under this part must be conducted, except as 5 otherwise provided, as nearly as practicable in accordance 6 with the provisions of the general election laws of this 7 state, except that no registration of electors is required.

8 (2) As soon as all the votes are counted, a
9 certificate must be attached to each of the papers
10 containing the poll list and tallies, stating the number of
11 votes cast for each candidate or for each proposition and
12 designating the office or proposition voted for. Each
13 certificate must be signed by the clerk and judges.

(3) The ballots, together with the certificates and 14 15 the attached poll list and tallies, must be sealed by the 16 judges and clerk, endorsed as the election returns of the 17 precinct, and delivered to the secretary of the board of 18 commissioners by the judges or some other safe and responsible carrier. The ballots must be kept by the board 19 20 of commissioners in the same manner as ballots are kept in 21 other elections.

22 <u>NEW\_SECTION</u>. Section 7. Canvass. No poll list, tally 23 paper. or certificate returned from any election may be set 24 aside or rejected merely for want of form, if it can be 25 satisfactorily understood. The board of commissioners of the

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1 district shall meet on the first Monday after the election Z to canvass the returns. If, at the time of the meeting, the 3 returns have been received from each precinct in the 4 district in which the polls were opened, the board shall 5 proceed to canvass the returns. If all the returns have not been received, the canvass must be postponed from day to day 6 7 until all the returns have been received. The canvass must 8 be made in public. The board shall declare elected the 9 person receiving the highest number of votes for each office 10 and also declare the result of the vote on any question 11 submitted.

NEW SECTION. Section 8. Statement of election results. (1) The secretary of the board of commissioners. as soon as the result of any election held under the provisions of this part is declared, shall enter in the records of the board and file with the county election administrator the following statement of the results:

18 (a) a copy of the election notice and proof of posting 19 the same;

20 (b) the names of the judges and clerks of the 21 election;

22 (c) the whole number of votes cast in the district and

23 in each precinct of the district;

24 (d) the names of the persons voted for;

25 (e) the offices to be filled by the election;

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1 (f) the number of votes given in each precinct for 2 each person;

3 (g) the number of votes given in the district for each4 person;

(h) the names of the persons declared elected;

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6 (i) the proposition of <u>OR</u> propositions submitted, the
7 vote for and against each, and the result of the vote.

8 (2) The secretary shall immediately complete and
9 deliver to each person elected a certificate of election.
10 signed by him and authenticated with the seal of the
11 district.

12 NEW\_SECTION. Section 9. Nominations. (1) Candidates 13 for the office of commissioner to be filled by election 14 under the provisions of this part may be nominated by 15 petition filed with the secretary of the board of commissioners of the district at least 10 days prior to the 16 election and signed by not less than five electors of the 17 18 district. The petition shall specify the respective 19 divisions for which the nominees are candidates. The names 20 of all candidates for each division of the district must be 21 printed on the same ballot.

(2) If no nominations are made, the electors of the
district shall write on the ballots the names of the persons
for whom they desire to vote for commissioners. Nothing
prevents an elector from voting for any qualified person

although the name does not appear on the official vallots.
 Section 10. Section 85-7-1710. MCA. is amended to
 read:

4 "85-7-1710. Qualification of electors and nature of 5 voting rights. (1) At all elections held under the 6 provisions of this part, except as otherwise expressly 7 provided, the following holders of title or evidence of 8 title to lands within the district, herein designated 9 electors, are entitled to vote:

(a) all individuals having the qualifications of
 electors under the constitution and general and--school
 election laws of the state, except that no registration of
 electors may be required;

14 {b} guardians, executors, administrators, and trustees
15 residing in the state;

16 (c) domestic corporations, by their duly authorized 17 agents.

18 (2) In all elections held under this part, each elector is permitted to cast one vote for each 40 acres of 19 20 irrigable land or major fraction thereof owned by the 21 elector within the district, irrespective of the location of 22 the irrigable lands within the tracts designated by the 23 commissioners for assessment and taxation purposes or within 24 congressional subdivisions, platted lots or blocks (except 25 as hereinafter provided for), election precincts, or

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district divisions, but any elector owning any less than 40 acres of irrigable land is entitled to one vote. Until the irrigable area under the proposed plan of reclamation is determined, all land included within the boundaries of the district shall be considered irrigable land for election purposes.

\* (3) Whenever land is owned by co-owners, the owners 8 may designate one of their number or an agent to cast the 9 vote for the owners, and one vote only for each 40 acres of 10 irrigable land or major fraction thereof may be cast by the 11 voting co-owner or agent. Whenever land is under contract of 12 sale to a purchaser residing within the state, the purchaser 13 may vote on behalf of the owner of the land. When voting, the agent of a corporation or co-owners, the co-owner 14 15 designated for purpose of voting, or the purchaser of land under contract of sale, as the case may be, shall file with 16 17 the secretary of the district or with the election officials 18 a written instrument of his authority, executed and 19 acknowledged by the proper officers of the corporation, by 20 the co-owners, or by the owner of land under contract of 21 sale, as the case may be, and thereupon the agent or 22 co-owner or purchaser, as the case may be, is an elector 23 within the meaning of this part. Whenever the total Z4 irrigable acreage within any one district has been platted 25 or subdivided into lots or blocks to the extent of 5% or

1 more of the total acreage of the district, each elector is permitted to cast one vote for each acre of irrigable land 2 3 or major fraction thereof owned by the elector within the 4 district, irrespective of the location of such irrigable 5 lands within the tracts designated by the commissioners for 6 assessment and taxation purposes or within the congressional 7 subdivisions, but any elector owning any less than 1 acre of irrigable land within the district is entitled to one vote. 6 9 The balloting shall take place in the following manner: 10 10 votes or less, separate ballots will be used; more than 10 11 votes, the elector shall vote in blocks of 10 using one 12 ballot for each 10 votes and separate ballots for odd votes 13 over multiples of 10. The election shall otherwise conform 14 with the provisions of Title-13 [section 6]."

15 Section 11- Section 85-8-302, MCA, is amended to read: 16 "85-B-302. Election of commissioners -- regular term 17 of office. (1) The regular election of commissioners shall 18 be held annually in-accordance-with-13-1-104 on the first 19 Tuesday in April. The term of office of commissioners shall commence on the first Monday <u>Tuesday</u> in January May 20 21 following their election. At the first regular election 22 following the organization of a district and in districts 23 organized and in existence on March 1, 1921, and which, on 24 petition, have been divided into divisions, at the first regular election following the date of the order making such 25

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1 division, there shall be elected three commissioners, one 2 commissioner being elected from each division of which he 3 must be an actual landowner. One of the commissioners, to be 4 determined by lot, shall hold office until the first Honday Tuesday in January May in the year following his election; 5 6 another of the commissioners, to be determined by lot, shall hold office until the first Monday Tuesday in January May in 7 8 the second year following his election; and the third of the 9 commissioners shall hold office until the first Monday 10 Tuesday in January Hay in the third year following his 11 election. Thereafter one commissioner shall be elected each 12 year. who shall hold office for a term of 3 years and until 13 his successor is elected and gualified. The person elected 14 as a commissioner in each year to succeed the commissioner 15 whose term is then expiring must be elected as a 16 commissioner from the same division as the commissioner whom 17 he is to succeed.

18 (2) Each commissioner must be a resident of a county
19 where a portion of the district lands is situated."

20 Section 12. Section 85-8-303, MCA, is amended to read: 21 "85-8-303. Notice of election. Forty <u>Fifteen</u> days 22 before any regular election, the secretary of the board of 23 commissioners shall give notice by mail to all landowners 24 within the district of the time and place of holding the 25 election. <u>Prior to the mailing of such notices, the board</u>

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shall designate a polling place and appoint three persons to 1 act as judges and clerks of election in each precinct. The Z 3 board shall prescribe the form and provide for the printing 4 of the ballots for all elections." 5 Section 13. Section 85-8-304, MCA, is amended to read: 6 #85-8-304. Results Conduct of election. [1] Any judge 7 of election\_may\_administer\_any\_oath\_required\_\_to\_\_be 8 administered\_ during the progress of an election. Before the 9 opening of the polls the judges of election must take and 10 subscribe an oath to faithfully perform the duties imposed 11 upon\_them by law. The\_ oath may be administered by any 12 elector. 13 [2] Any election held under this part must be 14 conducted, except as otherwise provided, as nearly as 15 practicable in accordance with the provisions of the general 16 election laws of the state, except that no registration is 17 required. 18 (3) As soon as the polls are closed the judges must 19 count and tabulate the votes cast and make out a 20 certificates to be signed by them, showing the total number 21 of votes cast at the election and the total number cast for 22 each candidate for commissioner and shall deliver such certificate, with a list of the electors voting at such 23 24 election: to the board of commissioners. 25 (4) The board of commissioners shall meet on the first

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1 Monday following the election and canvass the returns. The 2 board shall declare elected the person or persons receiving the highest number of votes. 3

4 (5) The every secretary of the board of directors 5 commissioners shall enter the result of the election in the 6 minutes of the board and file with the clerk of the district 7 court creating the district a statement showing the names of 8 the persons elected as commissioners, the names of the commissioners whose term will expire on the first Honday 9 10 Tuesday in January May following, and the names of all of persons who will compose the board of directors 11 the commissioners for the year next following the first Honday 12 13 Tuesday in January May."

14 Section 14. Section 85-8-305, MCA, is amended to read: 15 #85-8-305. Qualifications of electors. (1) At all such elections, except as herein otherwise expressly provided, 16 17 the following persons holding title or evidence of title to lands within the district shall be entitled to vote: 18

19 (a) all of the persons having the qualifications of 20 electors under the constitution and general election laws of 21 the state, except that no registration of electors may be 22 required;

23 (b) quardians, administrators, executors, and trustees 24 residing in the state;

25 (c) domestic corporations by their duly authorized

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1 agents.

(2) In all elections each elector shall be permitted 2 3 to cast one vote for each 40 acres of land or major fraction thereof in the district owned by such elector, but any 4 5 elector owning 20 acres or less shall be entitled to one 6 vote."

7 Section 15. Codification instruction. Sections 3 8 through 9 are intended to be codified as an integral part of 9 Title 85, chapter 7, part 17, and the provisions of Title 10

85, chapter 7, part 17, apply to sections 3 through 9.

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