

SENATE BILL NO. 260

INTRODUCED BY HARDING, VAUGHN

BY REQUEST OF THE SECRETARY OF STATE

IN THE SENATE

JANUARY 30, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
FEBRUARY 16, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1987	PRINTING REPORT.
FEBRUARY 18, 1987	SECOND READING, DO PASS.
FEBRUARY 19, 1987	ENGROSSING REPORT.
FEBRUARY 20, 1987	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
MARCH 12, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 14, 1987	SECOND READING, CONCURRED IN.
MARCH 16, 1987	THIRD READING, CONCURRED IN. AYES, 96; NOES, 0.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 19, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 20, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 *Senate* BILL NO. *260*
 2 INTRODUCED BY *Wardley*
 3 BY REQUEST OF THE SECRETARY OF STATE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE,
 6 CLARIFY, AND UPDATE THE ELECTION LAWS; AMENDING SECTIONS
 7 13-1-202, 13-2-102, 13-2-202, 13-2-207, 13-10-209,
 8 13-13-116, 13-13-117, 13-13-119, 13-13-204, 13-13-205,
 9 13-13-241, 13-13-311, 13-15-101, 13-15-104, 13-27-105,
 10 13-27-303, 13-27-402, AND 13-27-403, MCA; REPEALING SECTION
 11 13-13-242, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 12

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

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

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

19 (a) written directives and instructions relating to
 20 and based on the election laws;

21 (b) sample copies of prescribed and suggested forms;
 22 and

23 (c) advisory opinions on the effect of election laws
 24 other than those laws in chapters 35, 36, or 37 of this
 25 title.

1 (2) The secretary of state may prescribe the design of
 2 any election form required by law. He must seek the advice
 3 of election administrators and printers in designing the
 4 required forms.

5 (3) The secretary of state, with advice from election
 6 administrators, may adopt rules concerning election laws
 7 other than those in chapter 35, 36, or 37 of this title.

8 ~~(3)~~(4) Each election administrator shall comply with
 9 the rules, directives, and instructions and shall provide
 10 election forms prepared as prescribed."

11 Section 2. Section 13-2-102, MCA, is amended to read:

12 "13-2-102. Deputy registrars. (1) A notary public who
 13 fulfills the requirements of subsection (4) may be act as a
 14 deputy registrar in the county in which he resides without
 15 having been appointed by the county governing body. If a
 16 notary public fails to fulfill the requirements of
 17 subsection (4), he may not act as a deputy registrar but may
 18 register electors in the county in which he resides as
 19 provided in 13-2-203(3).

20 (2) (a) The governing body of each county may at its
 21 discretion appoint two or more deputy registrars for each
 22 precinct in the county before March 15 1 of each
 23 even-numbered year.

24 (b) The number of deputy registrars, if appointed,
 25 shall be equally divided between the political parties

meeting the requirements of 13-10-601 unless one or more of the parties fail to submit the list required in subsection (3) or submit an incomplete list. A political party which qualifies under 13-10-501 may request the appointment of deputy registrars and shall submit a list for such appointments within 30 days of such qualification.

(c) An appointed deputy registrar must be a resident elector in the precinct for which appointed but may register electors in all precincts in the state.

(3) Deputy registrars shall be appointed from lists of individuals recommended by the qualified political parties, submitted by February 1 of even-numbered years. If no lists are submitted by political parties, the governing body may appoint two deputy registrars for each precinct without party recommendations. Failure of the governing body to make appointments in all precincts does not preclude making appointments in some precincts.

(4) Each election administrator shall provide training in registration procedures to all appointed deputy registrars in-registration-procedures and any notary public requesting the training and shall issue a certificate to each deputy--registrar on successful completion of the training. The training and certification must be completed by March 15 of each even-numbered year. A No one is a qualified deputy registrar may-not-register-voters without a

current certificate. All certificates expire on March 15 1 of each the following even-numbered year.

~~(5)--Deputy--registrars--shall--forward--all--completed cards--to--the--county-registrar-within-3-days--Registration cards-properly-executed-before-a-deputy-registrar--prior--to the-close-of-registration-shall-be-accepted-for-3-days-after the-close-of-registration--~~

(5) Each election administrator shall certify to the secretary of state the name of each deputy registrar to whom a certificate has been issued. The secretary of state shall then compile a list of deputy registrars with current certificates and make that list available to each election administrator and the public.

(6) Deputy registrars shall forward all completed cards to the county registrar within 3 days. Registration cards properly executed before a deputy registrar prior to the close of registration shall be accepted for 3 days after the close of registration."

Section 3. Section 13-2-202, MCA, is amended to read:

"13-2-202. Registration by personal appearance. An elector may register by appearing before the registrar in the county in which he resides or a deputy registrar in--the county-in-which-he-resides and:

(1) answering any questions asked by the official concerning items of information called for in the

1 registration form;

2 (2) signing and verifying or affirming the affidavit
3 or affidavits on the form."

4 Section 4. Section 13-2-207, MCA, is amended to read:

5 "13-2-207. Notice of registration. (1) The election
6 administrator shall give or mail to each elector a notice,
7 affirming registration and giving the location of the
8 elector's polling place. Mailed notices must ~~have-printed-on~~
9 ~~the-address-side-the-words-"Do-Not-Forward,--Return--Postage~~
10 ~~Guaranteed"~~ conform to postal regulations to ensure return,
11 not forwarding, of undelivered notices.

12 (2) The election administrator must investigate the
13 reason for the return of any mailed notices and correct the
14 address on the registration form and mail a new notice or
15 cancel the registration of the elector if a diligent effort
16 fails to locate the elector named on the registration form."

17 NEW SECTION. Section 5. Write-in elections -- general
18 election. An individual elected by having his name written
19 on the general election ballot and receiving the largest
20 number of votes shall:

21 (1) file with the secretary of state or election
22 administrator, not later than 5 days after the official
23 canvass, a written declaration indicating his acceptance of
24 the position for which he was elected; and

25 (2) comply with the provisions of 13-37-225.

1 Section 6. Section 13-10-209, MCA, is amended to read:

2 "13-10-209. Arrangement of ballots. (1) Ballots for a
3 primary election shall be arranged and printed in the same
4 manner and number as provided in chapter 12 for general
5 election ballots, except there shall be separate ballots for
6 each political party entitled to participate ~~and--separate~~
7 ~~nonpartisan--and-ballot-issue-ballots-if-necessary.~~ The name
8 of the political party shall be printed at the top of the
9 separate ballot for that party and need not be printed
10 opposite each candidate's name. Separate nonpartisan and
11 ballot issue ballots must be printed, if necessary, except
12 as provided in subsection (6).

13 (2) It is not necessary to print a primary ballot for
14 a political party which does not have candidates for more
15 than half of the offices on the ballot in even-year
16 elections if no more than one candidate files for nomination
17 by that party for any of the offices on the ballot. The
18 secretary of state shall certify that no primary election is
19 necessary for that party if such is the case and shall
20 certify or instruct the election administrator to certify
21 the names of the candidates for that party for the general
22 election ballot only.

23 (3) The separate ballots for each party shall be the
24 same size and color. The stubs of each set of party ballots
25 shall bear the same number. The nonpartisan ballot shall be

1 a different size or color than the party ballots, but the
2 stubs shall be numbered in the same order as the party
3 ballots.

4 (4) If a ballot issue is to be voted on at a primary
5 election, it may be placed on the nonpartisan ballot or a
6 separate ballot. A separate ballot may be a different size
7 and color than the other ballots in the election, but the
8 stubs shall be numbered in the same order.

9 (5) Each elector shall receive a set of party ballots
10 and a nonpartisan and a ballot issue ballot if such ballots
11 are printed.

12 (6) In primary election precincts using optical scan
13 voting devices, nonpartisan offices and ballot issues may
14 appear on the same ballot as partisan offices if:

15 (a) each section is clearly identified as separate;
16 and

17 (b) such nonpartisan offices and ballot issues appear
18 on each party's ballot."

19 Section 7. Section 13-13-116, MCA, is amended to read:

20 "13-13-116. Ballots to be stamped -- one ballot to
21 elector. (1) Before delivering ballots to an elector, the
22 election judges shall stamp the words "official ballot" on
23 the ~~back-near-the-top-of-the~~ ballot. No part of the stamp
24 may appear on the stub. They shall also stamp the name of
25 the county, the number of the precinct, the date of the

1 election, and any other information the election
2 administrator believes necessary to distinguish the ballots
3 from those used in any other election.

4 (2) Each elector shall receive from the election
5 judges one of each type of ballot being used at the
6 election."

7 Section 8. Section 13-13-117, MCA, is amended to read:

8 "13-13-117. Method of voting. (1) On receipt of his
9 ballot, the elector must immediately retire to one of the
10 booths and prepare his ballot.

11 (2) He shall prepare his ballot by marking an "x" in
12 the square before the name of the individual or individuals
13 for whom he intends to vote.

14 (3) If the ballot contains a ballot issue, he shall
15 mark an "x" in the applicable square indicating his vote
16 either for or against the issue.

17 (4) The elector may write the name of an individual
18 for whom he wishes to vote in the blank space or affix a
19 preprinted label in the blank space ~~or-over-any-other-name~~
20 and may vote for that individual by marking an "x" before
21 the name. When the ballot is marked in this manner, it must
22 be counted the same as though the name were printed upon the
23 ballot and marked by the elector.

24 (5) An elector voting a ballot that will be counted by
25 an optical scan ballot tabulating device shall mark his

1 ballot in the manner prescribed on his ballot. However, his
 2 ballot must not be invalidated if he marks the voting
 3 positions with an "x".

4 ~~(5)~~(6) After preparing his ballot, the elector must
 5 fold it so the face of the ballot will be concealed and the
 6 official stamp may be seen and hand it to the election
 7 judges.

8 ~~(6)~~(7) The judge receiving the ballots shall remove
 9 the stubs in sight of the elector and deposit each ballot in
 10 the ballot box and each stub in a box for detached stubs.
 11 The judge must place the ballots in the ballot box
 12 immediately without opening or examining them.

13 ~~(7)~~(8) No individual except an election judge may put
 14 a ballot, any paper resembling a ballot, or anything other
 15 than a ballot in a ballot box.

16 ~~(8)~~(9) Any elector who spoils his ballot may, on
 17 returning the spoiled ballot, receive another in place of
 18 it."

19 Section 9. Section 13-13-119, MCA, is amended to read:

20 "13-13-119. Aid to disabled elector. (1) The election
 21 judges or ~~a--qualified-electior-of-the-county~~ an individual
 22 chosen by the disabled elector as specified in subsection
 23 (4) may aid an elector who, because of physical disability
 24 or inability to read or write, needs assistance in marking
 25 his ballot.

1 (2) The election judges shall require the declaration
 2 of disability by the elector to be under oath and may
 3 administer the oath.

4 (3) The elector may be assisted by two judges who
 5 represent different parties. The judges must certify on the
 6 precinct register opposite the disabled elector's name that
 7 the ballot was marked with their assistance. The judges may
 8 not reveal information regarding the ballot.

9 (4) Instead of assistance as provided in subsection
 10 (3), the elector may request the assistance of any qualified
 11 elector-of-the-county individual whom he designates to the
 12 judges to aid him in the marking of his ballot, and the
 13 elector individual chosen shall sign his name on the
 14 precinct register beside the name of the elector assisted.
 15 The individual chosen may not be the elector's employer, an
 16 agent of his employer, or an officer or agent of the
 17 elector's union.

18 (5) No elector other than the one who requires
 19 assistance may divulge to anyone within the polling place
 20 the name of any candidate for whom he intends to vote or may
 21 ask or receive the assistance of any individual within the
 22 polling place in the preparation of his ballot."

23 Section 10. Section 13-13-204, MCA, is amended to
 24 read:

25 "13-13-204. Authority to vote in person -- printing

1 error or ballot destroyed -- failure to receive ballot --
 2 effect of absentee elector's death. (1) If an elector has
 3 voted by absentee ballot but the absentee ballot contains
 4 printing errors or omissions or if the absentee ballot was
 5 destroyed, the elector may vote in person in any manner at
 6 his polling place.

7 (2) If an elector does not receive his absentee
 8 ballot, he may appear at his polling place on election day
 9 and vote in person after signing an affidavit, in the form
 10 prescribed by the secretary of state, swearing that his
 11 ballot has not been received.

12 ~~(2)~~ (3) If an elector votes by absentee ballot and dies
 13 between the time of balloting and election day, his ballot
 14 does not count."

15 Section 11. Section 13-13-205, MCA, is amended to
 16 read:

17 "13-13-205. When ballots to be available. (1) The
 18 election administrator shall ensure that ballots are printed
 19 and available for absentee voting at least 45 days prior to
 20 an election for those elections held in compliance with
 21 13-1-104(1) and 13-1-107(1).

22 (2) For elections held in compliance with 13-1-104(2)
 23 and 13-1-107(2), the election administrator shall ensure
 24 that ballots are printed and available for absentee voting
 25 at least 20 days prior to an election."

1 Section 12. Section 13-13-241, MCA, is amended to
 2 read:

3 "13-13-241. Examination of absentee ballot envelopes
 4 and affirmations while polls open -- deposit of absentee and
 5 unvoted ballots. (1) While the polls are open, the election
 6 judges may compare the signature of the elector on the
 7 absentee ballot request and affirmation. If they find that
 8 the signatures correspond, that the affirmation is
 9 sufficient, and that the absentee elector is qualified and
 10 has not yet voted, they ~~shall place the absentee elector's~~
 11 ~~envelope in a box or envelope marked "unopened" and checked~~
 12 ~~and valid absentee ballots~~ may, after removing the stub,
 13 deposit the absentee elector's ballot in the ballot box. In
 14 a primary election, the unvoted ballots must be deposited in
 15 the unvoted ballot box without being removed from the ballot
 16 enclosure envelopes.

17 (2) If ~~the absentee ballot does not meet the~~
 18 ~~requirements specified in subsection (1), it shall be~~
 19 ~~rejected. The election judges, without opening the absentee~~
 20 ~~ballot envelope, shall mark across it the reason for~~
 21 ~~rejection, and a majority of the judges shall sign their~~
 22 ~~initials. Unopened rejected absentee ballot envelopes shall~~
 23 ~~be handled in the same manner as provided for rejected~~
 24 ~~ballots in 13-13-243.~~ upon opening the absentee ballot
 25 envelope, the election judges find that the number on the

ballot does not correspond to the number on the certificate of the election administrator, the ballot must be rejected. The reason for rejection must be marked on the back of the ballot and initialed by a majority of the election judges."

Section 13. Section 13-13-311, MCA, is amended to read:

"13-13-311. Vote by challenged elector. (1) Whenever an individual's right to vote at an election is challenged under 13-2-404 or 13-13-301 and the challenge has been determined in favor of the individual challenged as provided in 13-13-307, an election judge shall write in the pollbook at the end of the individual's name the words "challenged and sworn", with the name of the challenger, if known. The elector so challenged ~~shall~~ must be allowed to vote by-paper ballot. The election judge shall then write upon the back of the ballot offered by the challenged elector the number of his ballot. The ballot may be cast out if it appears to the court to have been for any reason wrongfully or illegally voted.

(2) Placing information on a ballot or pollbook under provision of subsection (1) or divulging such information in a legal proceeding subsequent to the election does not constitute a violation of 13-35-202 or 13-35-207."

Section 14. Section 13-15-101, MCA, is amended to read:

"13-15-101. Votes to be publicly counted upon closing of polls. (1) When the polls are closed, the election judges shall immediately count the votes. The count shall be public and continue without adjournment until completed and the result is publicly declared.

(2) Immediately after all the ballots are counted in ~~each-precinct~~, the election judges shall copy the total votes cast for each candidate and for and against each proposition on the return forms furnished by the election administrator.

(3) The election judges shall immediately post one of the return forms at the polling place of counting and return a copy to the election administrator. Both forms shall be signed by all the election judges completing the count."

Section 15. Section 13-15-104, MCA, is amended to read:

"13-15-104. Counting board for absentee ballots. (1) The election administrator shall:

(a) give special instructions to any counting board for absentee ballots appointed under 13-4-101 on the proper procedures for counting the absentee ballots; and

(b) provide the forms and supplies necessary for the board to perform its duties.

(2) The counting board for absentee ballots shall:

(a) be sequestered in a room separate from where

1 ballots are being cast;

2 (b) at any time prior to the closing of the polls but
3 not before the polls open, start the count of the absentee
4 votes cast; and

5 (c) follow the procedures outlined in ~~13-13-242 and~~
6 13-15-103 for the counting of the votes cast.

7 (3) No election judge or other individual having
8 access to any results of early counting may disclose the
9 information while the polls are open, and he must remain
10 sequestered until the closing of the polls.

11 (4) (a) In addition to the official oath taken and
12 subscribed to by the election judges, the members of the
13 counting board for absentee ballots shall complete and sign
14 the following affirmation: "I,, will not discuss or
15 disclose or allow anyone else to discuss or disclose to
16 anyone the results of the early counting of votes while the
17 polls are open."

18 (b) The chief election judge shall witness and sign
19 the affirmation."

20 NEW SECTION. Section 16. Withdrawal of signatures.

21 (1) Signatures may be withdrawn from a petition for
22 constitutional amendment, constitutional convention,
23 initiative, or referendum up to the time of final submission
24 of petition sheets as provided in 13-27-301.

25 (2) The secretary of state shall prescribe the form to

1 be used by an elector desiring to have his signature
2 withdrawn from a petition.

3 Section 17. Section 13-27-105, MCA, is amended to
4 read:

5 "13-27-105. Effective date of initiative and
6 referendum issues. (1) Unless the petition placing an
7 initiative issue on the ballot states otherwise, an
8 initiative issue, other than a constitutional amendment,
9 approved by the people is effective on October 1 following
10 approval. ~~However, if~~ If the issue delegates rulemaking
11 authority, it is effective no sooner than October 1
12 following approval.

13 (2) A constitutional amendment proposed by initiative
14 or by the legislature and approved by the people is
15 effective on July 1 following approval unless the amendment
16 provides otherwise.

17 (3) Unless specifically provided by the legislature in
18 an act referred by it to the people or until suspended by a
19 petition signed by at least 15% of the qualified electors in
20 a majority of the legislative representative districts, an
21 act referred to the people is in effect as provided by law
22 until it is approved or rejected at the election. An act
23 that is rejected is repealed effective the date the result
24 of the canvass is filed by the secretary of state under
25 13-27-503. An act referred to the people that was in effect

1 at the time of the election and is approved by the people
 2 remains in effect. An act that was suspended by a petition
 3 and is approved by the people is effective the date the
 4 result of the canvass is filed by the secretary of state
 5 under 13-27-503. An act referred by the legislature that
 6 contains an effective date following the election becomes
 7 effective on that date if approved by the people. An act
 8 that provides no effective date and whose substantive
 9 provisions were delayed by the legislature pending approval
 10 at an election and that is approved is effective October 1
 11 following the election."

12 Section 18. Section 13-27-303, MCA, is amended to
 13 read:

14 "13-27-303. Verification of signatures by county
 15 official -- allocating voters following reapportionment --
 16 duplicate signatures. (1) The Within 2 weeks after receiving
 17 the sheets or sections of a petition, the county official
 18 receiving-the-sheets-or-sections-of-a-petition shall check
 19 the names of all signers to verify they are registered
 20 electors of the county. In addition, the official shall
 21 randomly select signatures on each sheet or section and
 22 compare them with the signatures of the electors as they
 23 appear in the registration records of the office. If all the
 24 randomly selected signatures appear to be genuine, the
 25 number of signatures of registered electors on the sheet or

1 section may be certified to the secretary of state without
 2 further comparison of signatures. If any of the randomly
 3 selected signatures do not appear to be genuine, all
 4 signatures on that sheet or section must be compared with
 5 the signatures in the registration records of the office.

6 (2) For the purpose of allocating the signatures of
 7 voters among the several legislative representative
 8 districts of the state as required to certify a petition for
 9 a ballot issue under the provisions of this chapter
 10 following the filing of a districting and apportionment plan
 11 under 5-1-111 and before members of the house of
 12 representatives have been elected and qualified under the
 13 plan, the legislative representative districts among which
 14 the signatures must be allocated must be those in existence
 15 when the plan was filed.

16 (3) Upon discovery of duplicate signatures of an
 17 elector on any one issue, the election administrator may
 18 submit such name to the county attorney to be investigated
 19 under the provisions of 13-27-106 and 13-35-207."

20 Section 19. Section 13-27-402, MCA, is amended to
 21 read:

22 "13-27-402. Committees to prepare arguments for and
 23 against ballot issues. (1) The arguments advocating approval
 24 or rejection of the ballot issue and rebuttal arguments
 25 shall be submitted to the secretary of state by committees

appointed as provided in this section:.

~~{a}{2}~~ The ~~committee--advocating--approval--of--an--act~~
~~referred--to--the--people--or--a--constitutional--amendment~~
~~proposed--by--the--legislature--or--an--act--referred--to--the--people~~
~~by--referendum--petition~~ following committees shall be
 composed of one senator known to favor the measure,
 appointed by the president of the senate; one representative
 known to favor the measure, appointed by the speaker of the
 house of representatives; and one individual who need not be
 a member of the legislature, appointed by the first two
 members:.

(a) the committee advocating approval of an act
referred to the people or of a constitutional amendment
proposed by the legislature; or

(b) the committee advocating approval of an act
referred to the people by referendum petition.

~~{b}{3}~~ The committee advocating rejection of ~~a--ballot~~
~~issue~~ an act referred to the people or of a constitutional
amendment proposed by the legislature shall be composed of
 one senator appointed by the president of the senate; one
 representative appointed by the speaker of the house of
 representatives; and one individual who need not be a member
 of the legislature, appointed by the first two members.
 Whenever possible, the members shall be known to have
 opposed the issue.

~~{c}{4}~~ A The following shall be three-member committee
~~advocating--approval--of--a--ballot--issue--proposed--by--any--type~~
~~of--initiative--petition--or--advocating--rejection--of--any--ballot~~
~~issue--that--is--a--legislative--act--referred--to--the--people--by~~
~~referendum--petition~~ committees and shall be appointed by the
 person submitting the petition to the secretary of state
 under the provisions of 13-27-202:.

(a) the committee advocating approval of a ballot
issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any ballot
issue that is a legislative act referred to the people by
referendum petition.

~~{d}{5}~~ A committee advocating rejection of a ballot
 issue proposed by any type of initiative petition shall be
 composed of five members. The governor, attorney general,
 president of the senate, and speaker of the house of
 representatives shall each appoint one member, and the fifth
 member shall be appointed by the first four members. All
 members shall be known to favor rejection of the issue.

~~{2}{6}~~ No person may be required to serve on any
 committee under this section, and the person making an
appointment must have written acceptance of appointment from
the appointee."

Section 20. Section 13-27-403, MCA, is amended to
 read:

1 "13-27-403. Appointment to committee. (1) Appointments
2 to committees advocating approval or rejection of an act
3 referred to the people or a constitutional amendment
4 proposed by the legislature shall be made no later than 4 6
5 months before the election at which the ballot issue will be
6 voted on by the people. ~~All persons responsible for~~
7 ~~appointing members to such committees shall submit to the~~
8 ~~secretary of state the names and addresses of three~~
9 ~~prospective appointees for each position set forth in the~~
10 ~~order of preference of appointment, no later than 3 weeks~~
11 ~~before the deadline for making such appointments.~~

12 (2) Appointments to committees advocating approval or
13 rejection of a ballot measure referred to the people by
14 referendum petition or proposed by any type of initiative
15 petition shall be made no later than ~~10~~ 30 days after the
16 measure is ~~certified to the governor~~ approved for
17 circulation by the secretary of state. All persons
18 responsible for appointing members to the committee shall
19 submit to the secretary of state the names and addresses of
20 ~~two prospective~~ the appointees for each position, set forth
21 in the order of preference of appointment, no later than 2
22 weeks after the final date for filing the petition in
23 accordance with 13-27-301, no later than the date set by
24 this subsection. Such submission must include the written
25 acceptance of appointment from each appointee required by

1 section 13-27-402(6).

2 (3) All prospective appointees to a committee pursuant
3 to subsection (1) must be notified by the secretary of state
4 by certified mail, with return receipt requested, ~~at least~~
5 ~~15 days before the appointment deadline specified in~~
6 ~~subsection (1). A prospective appointee may assent or~~
7 ~~decline to serve on the committee by so informing the~~
8 ~~secretary of state, back of response to the secretary of~~
9 ~~state for any reason 10 days after mailing of notice is~~
10 ~~considered to be refusal of appointment no later than 5 days~~
11 ~~after the deadline set for appointment of committee members,~~
12 ~~of the deadlines for submission of the committee's~~
13 ~~arguments.~~

14 (4) All prospective appointees to a committee pursuant
15 to subsection (2) must be notified by the secretary of state
16 by certified mail, with return receipt requested, ~~at least 8~~
17 ~~days before the appointment deadline specified in subsection~~
18 ~~(2). A prospective appointee may assent or decline to serve~~
19 ~~on the committee by so informing the secretary of state,~~
20 ~~back of response to the secretary of state for any reason 5~~
21 ~~days after mailing of notice is considered to be refusal of~~
22 ~~appointment no later than 35 days after the petition has~~
23 ~~been approved for circulation, of the deadlines for~~
24 ~~submission of the committee's arguments.~~

25 (5) ~~The secretary of state shall determine which of~~

1 the---prospective---appointees---assenting---to---serve---on---the
 2 committee---shall---be---appointed---according---to---the---order---of
 3 preference---specified---by---the---appointing---authority---and---shall
 4 so---notify---all---prospective---appointees---by---the---appointment
 5 deadline---specified---in---subsection---(1)---or---(2)---respectively.
 6 Committees appointed under subsections (2)(b), (4), and (5)
 7 of 13-27-402 must be vacated and have no further obligation
 8 if the ballot measure for which they were appointed fails to
 9 receive sufficient signatures to place it on the ballot.
 10 The secretary of state shall notify the committee members of
 11 the failure of a ballot measure to receive sufficient
 12 signatures no later than 3 days after the filing deadline
 13 set in 13-27-104."

14 NEW SECTION. Section 21. Repealer. Section 13-13-242,
 15 MCA, is repealed.

16 NEW SECTION. Section 22. Extension of authority. Any
 17 existing authority of the secretary of state to make rules
 18 on the subject of the provisions of this act is extended to
 19 the provisions of this act.

20 NEW SECTION. Section 23. Codification instructions.
 21 (1) Section 5 is intended to be codified as an integral part
 22 of Title 13, chapter 15, part 1, and the provisions of Title
 23 13, chapter 15, part 1, apply to section 5.

24 (2) Section 16 is intended to be codified as an
 25 integral part of Title 13, chapter 27, part 3, and the

1 provisions of Title 13, chapter 27, part 3, apply to section
 2 16.

3 NEW SECTION. Section 24. Effective date. This act is
 4 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 STATEMENT OF INTENT

2 SENATE BILL 260

3 Senate State Administration Committee

4

5 A statement of intent is required for this bill because
6 it grants the secretary of state certain rulemaking
7 authority for the administration of election laws other than
8 those contained in Title 13, chapters 35 through 37.

9 It is intended that the authority to adopt rules
10 extends only to the application, operation, and
11 interpretation of state and federal election laws. The
12 secretary of state may adopt rules consistent with this
13 title concerning:

- 14 (1) the registration of electors;
15 (2) the selection and training of election judges;
16 (3) election supplies and procedures;
17 (4) counting and canvassing of votes;
18 (5) certification and use of voting machines and
19 devices;
20 (6) mail ballot elections;
21 (7) ballot issue elections;
22 (8) federal elections; and
23 (9) other such matters he may consider necessary to
24 obtain and maintain uniformity in the application of
25 election laws.

1 Nothing in this grant of authority may be interpreted
2 as extending the jurisdiction of the secretary of state to
3 establish rules beyond the scope of those responsibilities
4 described by law. The secretary of state shall follow the
5 procedures of the Montana Administrative Procedure Act for
6 any rules proposed for adoption.

THE STATEMENT OF INTENT ON SB 260 WAS
NOT PASSED BY THE COMMITTEE AND SHOULD
NOT HAVE BEEN ATTACHED.

SENATE BILL NO. 260

INTRODUCED BY HARDING, VAUGHN

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE, CLARIFY, AND UPDATE THE ELECTION LAWS; AMENDING SECTIONS ~~13-1-202~~, 13-2-102, 13-2-202, 13-2-207, 13-10-209, 13-13-116, 13-13-117, 13-13-119, 13-13-204, 13-13-205, 13-13-241, 13-13-311, 13-15-101, 13-15-104, 13-27-105, 13-27-303, 13-27-402, AND 13-27-403, MCA; REPEALING SECTION 13-13-242, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. ~~Section 13-1-202, MCA, is amended to read:~~

~~"13-1-202. Forms and rules prescribed by chief election officer. (1) In carrying out his responsibilities under 13-1-201, the secretary of state shall prepare and deliver to the election administrators:~~

~~(a) written directives and instructions relating to and based on the election laws;~~

~~(b) sample copies of prescribed and suggested forms;~~

and

~~(c) advisory opinions on the effect of election laws other than those laws in chapters 35, 36, or 37 of this title.~~

~~(2) The secretary of state may prescribe the design of any election form required by law. He must seek the advice of election administrators and printers in designing the required forms.~~

~~(3) The secretary of state, with advice from election administrators, may adopt rules concerning election laws other than those in chapter 35, 36, or 37 of this title.~~

~~(3)(4) Each election administrator shall comply with the rules, directives, and instructions and shall provide election forms prepared as prescribed."~~

Section 1. Section 13-2-102, MCA, is amended to read:

"13-2-102. Deputy registrars. (1) A notary public who fulfills the requirements of subsection (4) may be act as a deputy registrar in the county in which he resides without having been appointed by the county governing body. If a notary public fails to fulfill the requirements of subsection (4), he may not act as a deputy registrar but may register electors in the county in which he resides as provided in 13-2-203(3).

(2) (a) The governing body of each county may at its discretion appoint two or more deputy registrars for each precinct in the county before March 15 1 of each even-numbered year.

(b) The number of deputy registrars, if appointed, shall be equally divided between the political parties

meeting the requirements of 13-10-601 unless one or more of the parties fail to submit the list required in subsection (3) or submit an incomplete list. A political party which qualifies under 13-10-501 may request the appointment of deputy registrars and shall submit a list for such appointments within 30 days of such qualification.

(c) An appointed deputy registrar must be a resident elector in the precinct for which appointed but may register electors in all precincts in the state.

(3) Deputy registrars shall be appointed from lists of individuals recommended by the qualified political parties, submitted by February 1 of even-numbered years. If no lists are submitted by political parties, the governing body may appoint two deputy registrars for each precinct without party recommendations. Failure of the governing body to make appointments in all precincts does not preclude making appointments in some precincts.

(4) Each election administrator shall provide training in registration procedures to all appointed deputy registrars in registration procedures and any notary public requesting the training and shall issue a certificate to each deputy-registrar on successful completion of the training. The training and certification must be completed by March 15 of each even-numbered year. A No one is a qualified deputy registrar may not register voters without a

current certificate. All certificates expire on March 15 ~~±~~ 15 of ~~each the following~~ even-numbered year.

~~{5}--Deputy--registrars--shall--forward--all--completed cards--to--the--county-registrar--within--3--days--Registration cards--properly--executed--before--a--deputy-registrar--prior--to the--close--of--registration--shall--be--accepted--for--3--days--after the--close--of--registration--~~

{6}{5} Each election administrator shall certify to the secretary of state the name of each deputy registrar to whom a certificate has been issued. The secretary of state shall then compile a list of deputy registrars with current certificates and make that list available to each election administrator and the public.

(6) Deputy registrars shall forward all completed cards to the county registrar within 3 days. Registration cards properly executed before a deputy registrar prior to the close of registration shall be accepted for 3 days after the close of registration."

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

"13-2-202. Registration by personal appearance. An elector may register by appearing before the registrar in the county in which he resides or a deputy registrar in the county in which he resides and:

(1) answering any questions asked by the official concerning items of information called for in the

1 registration form;

2 (2) signing and verifying or affirming the affidavit
3 or affidavits on the form."

4 Section 3. Section 13-2-207, MCA, is amended to read:

5 "13-2-207. Notice of registration. (1) The election
6 administrator shall give or mail to each elector a notice,
7 affirming registration and giving the location of the
8 elector's polling place. Mailed notices must ~~have-printed-on~~
9 ~~the-address-side-the-words-"Do-Not-Forward,--Return--Postage~~
10 ~~Guaranteed"~~ conform to postal regulations to ensure return,
11 not forwarding, of undelivered notices.

12 (2) The election administrator must investigate the
13 reason for the return of any mailed notices and correct the
14 address on the registration form and mail a new notice or
15 cancel the registration of the elector if a diligent effort
16 fails to locate the elector named on the registration form."

17 NEW SECTION. Section 4. Write-in elections -- general
18 election. An individual elected by having his name written
19 on IN AT the general election ballot and receiving the
20 largest number of votes shall:

21 (1) file with the secretary of state or election
22 administrator, not later than 5 10 days after the official
23 canvass, a written declaration indicating his acceptance of
24 the position for which he was elected; and

25 (2) comply with the provisions of 13-37-225.

1 Section 5. Section 13-10-209, MCA, is amended to read:

2 "13-10-209. Arrangement of ballots. (1) (A) Ballots
3 for a primary election shall be arranged and printed in the
4 same manner and number as provided in chapter 12 for general
5 election ballots, except there shall be separate ballots for
6 each political party entitled to participate ~~and-separate~~
7 ~~nonpartisan-and-ballot-issue-ballots-if-necessary.~~ The name
8 of the political party shall be printed at the top of the
9 separate ballot for that party and need not be printed
10 opposite each candidate's name. ~~Separate-nonpartisan-and~~
11 ~~ballot-issue-ballots-must-be-printed,--if-necessary,--except~~
12 ~~as-provided-in-subsection-(6)-~~

13 (B) NONPARTISAN OFFICES AND BALLOT ISSUES MAY BE
14 PRINTED ON SEPARATE BALLOTS OR MAY APPEAR ON THE SAME BALLOT
15 AS PARTISAN OFFICES IF:

16 (I) EACH SECTION IS CLEARLY IDENTIFIED AS SEPARATE;
17 AND

18 (II) SUCH NONPARTISAN OFFICES AND BALLOT ISSUES APPEAR
19 ON EACH PARTY'S BALLOT.

20 (2) It is not necessary to print a primary ballot for
21 a political party which does not have candidates for more
22 than half of the offices on the ballot in even-year
23 elections if no more than one candidate files for nomination
24 by that party for any of the offices on the ballot. The
25 secretary of state shall certify that no primary election is

necessary for that party if such is the case and shall certify or instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

(3) The separate ballots for each party shall be the same size and color. The stubs of each set of party ballots shall bear the same number. ~~THE IF PRINTED AS A SEPARATE BALLOT, THE~~ nonpartisan ballot shall be a different size or color than the party ballots, but the stubs shall be numbered in the same order as the party ballots.

(4) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may be a different size and color than the other ballots in the election, but the stubs shall be numbered in the same order.

(5) Each elector shall receive a set of party ballots and a nonpartisan and a ballot issue ballot if such ballots are printed.

~~(6) -- In -- primary -- election -- precincts -- using -- optical -- scan voting devices, nonpartisan offices and ballot issues -- may appear on the same ballot as partisan offices if:~~

~~(a) -- each section -- is -- clearly -- identified -- as -- separate; and~~

~~(b) -- such nonpartisan offices and ballot issues -- appear on each party's ballot --~~

Section 6. Section 13-13-116, MCA, is amended to read:

"13-13-116. Ballots to be stamped -- one ballot to elector. (1) Before delivering ballots to an elector, the election judges shall stamp the words "official ballot" on the ~~back-near-the-top-of-the~~ ballot. No part of the stamp may appear on the stub. They shall also stamp the name of the county, the number of the precinct, the date of the election, and any other information the election administrator believes necessary to distinguish the ballots from those used in any other election.

(2) Each elector shall receive from the election judges one of each type of ballot being used at the election."

Section 7. Section 13-13-117, MCA, is amended to read:

"13-13-117. Method of voting. (1) On receipt of his ballot, the elector must immediately retire to one of the booths and prepare his ballot.

(2) He shall prepare his ballot by marking an "x" in the square before the name of the individual or individuals for whom he intends to vote.

(3) If the ballot contains a ballot issue, he shall mark an "x" in the applicable square indicating his vote either for or against the issue.

(4) The elector may write the name of an individual for whom he wishes to vote in the blank space or affix a

preprinted label in the blank space ~~or over any other name~~ and may vote for that individual by marking an "x" before the name. When the ballot is marked in this manner, it must be counted the same as though the name were printed upon the ballot and marked by the elector.

(5) An elector voting a ballot that will be counted by an optical scan ballot tabulating device shall mark his ballot in the manner prescribed on his ballot. However, his ballot must not be invalidated if he marks the voting positions with an "x".

~~(5)(6)~~ After preparing his ballot, the elector must fold it so the face of the ballot will be concealed and the official stamp may be seen and hand it to the election judges.

~~(6)(7)~~ The judge receiving the ballots shall remove the stubs in sight of the elector and deposit each ballot in the ballot box and each stub in a box for detached stubs. The judge must place the ballots in the ballot box immediately without opening or examining them.

~~(7)(8)~~ No individual except an election judge may put a ballot, any paper resembling a ballot, or anything other than a ballot in a ballot box.

~~(8)(9)~~ Any elector who spoils his ballot may, on returning the spoiled ballot, receive another in place of it."

Section 8. Section 13-13-119, MCA, is amended to read:

"13-13-119. Aid to disabled elector. (1) The election judges or ~~a qualified elector of the county~~ an individual chosen by the disabled elector as specified in subsection (4) may aid an elector who, because of physical disability or inability to read or write, needs assistance in marking his ballot.

(2) The election judges shall require the declaration of disability by the elector to be under oath and may administer the oath.

(3) The elector may be assisted by two judges who represent different parties. The judges must certify on the precinct register opposite the disabled elector's name that the ballot was marked with their assistance. The judges may not reveal information regarding the ballot.

(4) Instead of assistance as provided in subsection (3), the elector may request the assistance of any ~~qualified elector of the county~~ individual whom he designates to the judges to aid him in the marking of his ballot, and the elector individual chosen shall sign his name on the precinct register beside the name of the elector assisted. The individual chosen may not be the elector's employer, an agent of his employer, or an officer or agent of the elector's union.

(5) No elector other than the one who requires

1 assistance may divulge to anyone within the polling place
2 the name of any candidate for whom he intends to vote or may
3 ask or receive the assistance of any individual within the
4 polling place in the preparation of his ballot."

5 Section 9. Section 13-13-204, MCA, is amended to read:

6 "13-13-204. Authority to vote in person -- printing
7 error or ballot destroyed -- failure to receive ballot --
8 effect of absentee elector's death. (1) If an elector has
9 voted by absentee ballot but the absentee ballot contains
10 printing errors or omissions ~~or if the absentee ballot was~~
11 ~~destroyed~~, the elector may vote in person in any manner at
12 his polling place.

13 (2) If an elector does not receive his absentee ballot
14 OR IF THE ABSENTEE BALLOT WAS DESTROYED, he may appear at
15 his polling place on election day and vote in person after
16 signing an affidavit, in the form prescribed by the
17 secretary of state, swearing that his ballot has not been
18 received OR WAS DESTROYED. BEFORE THE BALLOT IS GIVEN TO THE
19 ELECTOR, THE ELECTION JUDGE SHALL WRITE UPON THE BACK OF THE
20 BALLOT THE NUMBER OF THE BALLOT. THE BALLOT MAY BE CAST OUT
21 IF IT APPEARS TO THE COURT TO HAVE BEEN WRONGFULLY OR
22 ILLEGALLY VOTED.

23 ~~{2}~~(3) If an elector votes by absentee ballot and dies
24 between the time of balloting and election day, his ballot
25 does not count."

1 Section 10. Section 13-13-205, MCA, is amended to
2 read:

3 "13-13-205. When ballots to be available. (1) The
4 election administrator shall ensure that ballots are printed
5 and available for absentee voting at least 45 days prior to
6 an election for those elections held in compliance with
7 13-1-104(1) and 13-1-107(1).

8 (2) For elections held in compliance with 13-1-104(2)
9 AND (3), and 13-1-107(2), the election administrator shall
10 ensure that ballots are printed and available for absentee
11 voting at least 20 days prior to an election."

12 Section 11. Section 13-13-241, MCA, is amended to
13 read:

14 "13-13-241. Examination of absentee ballot envelopes
15 and affirmations while polls open -- deposit of absentee and
16 unvoted ballots. (1) While the polls are open, the election
17 judges may compare the signature of the elector on the
18 absentee ballot request and affirmation. If they find that
19 the signatures correspond, that the affirmation is
20 sufficient, and that the absentee elector is qualified and
21 ~~has not yet voted~~, they MAY OPEN THE ABSENTEE BALLOT
22 ENVELOPE. ~~shall place the absentee elector's envelope in a~~
23 ~~box or envelope marked "unopened" checked and valid~~
24 ~~absentee ballots~~ may, after removing the stub, deposit the
25 ~~absentee elector's ballot in the ballot box in a primary~~

~~election, the unvoted ballots must be deposited in the unvoted ballot box without being removed from the ballot enclosure envelopes.~~

~~(2) If the absentee ballot does not meet the requirements specified in subsection (1), it shall be rejected. The election judges, without opening the absentee ballot envelope, shall mark across it the reason for rejection, and a majority of the judges shall sign their initials. Unopened rejected absentee ballot envelopes shall be handled in the same manner as provided for rejected ballots in 13-13-243. Upon opening the absentee ballot envelope, the election judges find that the number on the ballot does not correspond to the number on the certificate of the election administrator, the ballot must be rejected. The reason for rejection must be marked on the back of the ballot and initialed by a majority of the election judges. IF THE ABSENTEE BALLOT DOES NOT MEET THE REQUIREMENTS SPECIFIED IN SUBSECTION (1), IT MUST BE REJECTED. THE ELECTION JUDGES, WITHOUT OPENING THE ABSENTEE BALLOT ENVELOPE, SHALL MARK ACROSS IT THE REASON FOR REJECTION AND A MAJORITY OF THE JUDGES SHALL SIGN THEIR INITIALS. UNOPENED REJECTED ABSENTEE BALLOT ENVELOPES MUST BE HANDLED IN THE SAME MANNER AS PROVIDED FOR REJECTED BALLOTS IN 13-13-243.~~

~~(3) AFTER OPENING THE ABSENTEE ENVELOPE AND WITHOUT~~

UNFOLDING THE BALLOTS OR PERMITTING THEM TO BE EXAMINED, THE ELECTION JUDGES SHALL ASCERTAIN WHETHER THE STUBS ARE ATTACHED OR ENCLOSED AND WHETHER THE NUMBERS CORRESPOND TO THE NUMBERS IN THE CERTIFICATE OF THE ELECTION ADMINISTRATOR. IF SO, THEY SHALL DETACH THE STUBS AND DEPOSIT THE STUBS AND BALLOTS IN THE PROPER BALLOT BOXES. IN A PRIMARY ELECTION, THE UNVOTED BALLOTS MUST BE DEPOSITED IN THE UNVOTED BALLOT BOX WITHOUT BEING REMOVED FROM THEIR ENCLOSURE ENVELOPE.

(4) IF UPON OPENING THE ABSENTEE BALLOT ENVELOPE IT IS FOUND THAT THE NUMBER DOES NOT CORRESPOND TO THE NUMBER ON THE CERTIFICATE OF THE ELECTION ADMINISTRATOR, THE BALLOT MUST BE REJECTED. THE REASON FOR REJECTION MUST BE MARKED ON THE BACK OF THE BALLOT OR BALLOTS, AND THE STATEMENT MUST BE INITIALED BY A MAJORITY OF THE ELECTION JUDGES."

Section 12. Section 13-13-311, MCA, is amended to read:

"13-13-311. Vote by challenged elector. (1) Whenever an individual's right to vote at an election is challenged under 13-2-404 or 13-13-301 and the challenge has been determined in favor of the individual challenged as provided in 13-13-307, an election judge shall write in the pollbook at the end of the individual's name the words "challenged and sworn", with the name of the challenger, if known. The elector so challenged shall must be allowed to vote by paper

1 ballot. The election judge shall then write upon the back of
2 the ballot offered by the challenged elector the number of
3 his ballot. The ballot may be cast out if it appears to the
4 court to have been for any reason wrongfully or illegally
5 voted.

6 (2) Placing information on a ballot or pollbook under
7 provision THE PROVISIONS of subsection (1) OR OF
8 13-13-204(2) or divulging such information in a legal
9 proceeding subsequent to the election does not constitute a
10 violation of 13-35-202 or 13-35-207."

11 Section 13. Section 13-15-101, MCA, is amended to
12 read:

13 "13-15-101. Votes to be publicly counted upon closing
14 of polls. (1) When the polls are closed, the election judges
15 shall immediately count the votes. The count shall be public
16 and continue without adjournment until completed and the
17 result is publicly declared.

18 (2) Immediately after all the ballots are counted in
19 each--precinct BY PRECINCT, the election judges shall copy
20 the total votes cast for each candidate and for and against
21 each proposition on the return forms furnished by the
22 election administrator.

23 (3) The election judges shall immediately post one of
24 the return forms at the polling place of counting and return
25 a copy to the election administrator. Both forms shall be

1 signed by all the election judges completing the count."

2 Section 14. Section 13-15-104, MCA, is amended to
3 read:

4 "13-15-104. Counting board for absentee ballots. (1)
5 The election administrator shall:

6 (a) give special instructions to any counting board
7 for absentee ballots appointed under 13-4-101 on the proper
8 procedures for counting the absentee ballots; and

9 (b) provide the forms and supplies necessary for the
10 board to perform its duties.

11 (2) The counting board for absentee ballots shall:

12 (a) be sequestered in a room separate from where
13 ballots are being cast;

14 (b) at any time prior to the closing of the polls but
15 not before the polls open, start the count of the absentee
16 votes cast; and

17 (c) follow the procedures outlined in ~~13-13-242~~ and
18 13-13-241 AND 13-15-103 for the counting of the votes cast.

19 (3) No election judge or other individual having
20 access to any results of early counting may disclose the
21 information while the polls are open, and he must remain
22 sequestered until the closing of the polls.

23 (4) (a) In addition to the official oath taken and
24 subscribed to by the election judges, the members of the
25 counting board for absentee ballots shall complete and sign

1 the following affirmation: "I,, will not discuss or
2 disclose or allow anyone else to discuss or disclose to
3 anyone the results of the early counting of votes while the
4 polls are open."

5 (b) The chief election judge shall witness and sign
6 the affirmation."

7 NEW SECTION. Section 15. Withdrawal of signatures.

8 (1) Signatures may be withdrawn from a petition for
9 constitutional amendment, constitutional convention,
10 initiative, or referendum up to the time of final submission
11 of petition sheets as provided in 13-27-301.

12 (2) The secretary of state shall prescribe the form to
13 be used by an elector desiring to have his signature
14 withdrawn from a petition.

15 Section 16. Section 13-27-105, MCA, is amended to
16 read:

17 "13-27-105. Effective date of initiative and
18 referendum issues. (1) Unless the petition placing an
19 initiative issue on the ballot states otherwise, an
20 initiative issue, other than a constitutional amendment,
21 approved by the people is effective on October 1 following
22 approval. However,--if if the issue delegates rulemaking
23 authority, it is effective no sooner than October 1
24 following approval.

25 (2) A constitutional amendment proposed by initiative

1 or by the legislature and approved by the people is
2 effective on July 1 following approval unless the amendment
3 provides otherwise.

4 (3) Unless specifically provided by the legislature in
5 an act referred by it to the people or until suspended by a
6 petition signed by at least 15% of the qualified electors in
7 a majority of the legislative representative districts, an
8 act referred to the people is in effect as provided by law
9 until it is approved or rejected at the election. An act
10 that is rejected is repealed effective the date the result
11 of the canvass is filed by the secretary of state under
12 13-27-503. An act referred to the people that was in effect
13 at the time of the election and is approved by the people
14 remains in effect. An act that was suspended by a petition
15 and is approved by the people is effective the date the
16 result of the canvass is filed by the secretary of state
17 under 13-27-503. An act referred by the legislature that
18 contains an effective date following the election becomes
19 effective on that date if approved by the people. An act
20 that provides no effective date and whose substantive
21 provisions were delayed by the legislature pending approval
22 at an election and that is approved is effective October 1
23 following the election."

24 Section 17. Section 13-27-303, MCA, is amended to
25 read:

"13-27-303. Verification of signatures by county official -- allocating voters following reapportionment -- duplicate signatures. (1) The Within-2 EXCEPT AS REQUIRED BY 13-27-104, WITHIN 4 weeks after receiving the sheets or sections of a petition, the county official receiving-the sheets-or-sections-of-a-petition shall check the names of all signers to verify they are registered electors of the county. In addition, the official shall randomly select signatures on each sheet or section and compare them with the signatures of the electors as they appear in the registration records of the office. If all the randomly selected signatures appear to be genuine, the number of signatures of registered electors on the sheet or section may be certified to the secretary of state without further comparison of signatures. If any of the randomly selected signatures do not appear to be genuine, all signatures on that sheet or section must be compared with the signatures in the registration records of the office.

(2) For the purpose of allocating the signatures of voters among the several legislative representative districts of the state as required to certify a petition for a ballot issue under the provisions of this chapter following the filing of a districting and apportionment plan under 5-1-111 and before members of the house of representatives have been elected and qualified under the

plan, the legislative representative districts among which the signatures must be allocated must be those in existence when the plan was filed.

(3) Upon discovery of FRAUDULENT SIGNATURES OR duplicate signatures of an elector on any one issue, the election administrator may submit THE NAME OF THE ELECTOR OR THE PETITION CIRCULATOR, OR BOTH, such-name to the county attorney to be investigated under the provisions of 13-27-106 and 13-35-207."

Section 18. Section 13-27-402, MCA, is amended to read:

"13-27-402. Committees to prepare arguments for and against ballot issues. (1) The arguments advocating approval or rejection of the ballot issue and rebuttal arguments shall be submitted to the secretary of state by committees appointed as provided in this section-.

~~ta)(2) The committee--advocating--approval--of--an--act referred--to--the--people--or--a--constitutional--amendment proposed-by-the-legislature-or-an-act-referred-to-the-people by---referendum---petition~~ following committees shall be composed of one senator known to favor the measure, appointed by the president of the senate; one representative known to favor the measure, appointed by the speaker of the house of representatives; and one individual who need not be a member of the legislature, appointed by the first two

members:

(a) the committee advocating approval of an act referred to the people or of a constitutional amendment proposed by the legislature; or

(b) the committee advocating approval of an act referred to the people by referendum petition.

(3) The committee advocating rejection of a ballot issue an act referred to the people or of a constitutional amendment proposed by the legislature shall be composed of one senator appointed by the president of the senate; one representative appointed by the speaker of the house of representatives; and one individual who need not be a member of the legislature, appointed by the first two members. Whenever possible, the members shall be known to have opposed the issue.

(4) A The following shall be three-member committee advocating approval of a ballot issue proposed by any type of initiative petition or advocating rejection of any ballot issue that is a legislative act referred to the people by referendum petition committees and shall be appointed by the person submitting the petition to the secretary of state under the provisions of 13-27-202:

(a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any ballot

issue that is a legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition shall be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member shall be appointed by the first four members. All members shall be known to favor rejection of the issue.

(6) No person may be required to serve on any committee under this section, and the person making an appointment must have written acceptance of appointment from the appointee."

Section 19. Section 13-27-403, MCA, is amended to read:

"13-27-403. Appointment to committee. (1) Appointments to committees advocating approval or rejection of an act referred to the people or a constitutional amendment proposed by the legislature shall be made no later than 4 6 months before the election at which the ballot issue will be voted on by the people. All persons responsible for appointing members to such committees shall submit to the secretary of state the names and addresses of three prospective appointees for each position, set forth in the order of preference of appointment, no later than 3 weeks

1 ~~before the deadline for making such appointments.~~

2 (2) Appointments to committees advocating approval or
3 rejection of a ballot measure referred to the people by
4 referendum petition or proposed by any type of initiative
5 petition shall be made no later than ~~10~~ 30 days after the
6 measure is ~~certified--to--the--governor~~ approved for
7 circulation by the secretary of state. All persons
8 responsible for appointing members to the committee shall
9 submit to the secretary of state the names and addresses of
10 ~~two--prospective~~ the appointees for each position, ~~set forth~~
11 ~~in the order of preference of appointment, no later--than--2~~
12 ~~weeks--after--the--final--date--for--filing--the--petition--in~~
13 ~~accordance with 13-27-301; no later than the date set by~~
14 ~~this subsection. Such submission must include the written~~
15 ~~acceptance of appointment from each appointee required by~~
16 ~~section 13-27-402(6).~~

17 (3) All prospective appointees to a committee pursuant
18 to subsection (1) must be notified by the secretary of state
19 by certified mail, with return receipt requested, ~~at least~~
20 ~~15--days--before--the--appointment--deadline--specified--in~~
21 ~~subsection--(1).--A--prospective--appointee--may--assent--or~~
22 ~~decline to serve on the committee by so--informing--the~~
23 ~~secretary of state;--back of response to the secretary of~~
24 ~~state for any reason 10 days--after--mailing--of--notice--is~~
25 ~~considered to be refusal of appointment~~ no later than 5 days

1 after the deadline set for appointment of committee members,
2 of the deadlines for submission of the committee's
3 arguments.

4 (4) All prospective appointees to a committee pursuant
5 to subsection (2) must be notified by the secretary of state
6 by certified mail, with return receipt requested, ~~at least 8~~
7 ~~days before the appointment deadline specified in subsection~~
8 ~~(2).--A prospective appointee may assent or decline to--serve~~
9 ~~on--the--committee--by--so--informing--the--secretary--of--state;~~
10 ~~back of response to the secretary of state for any reason--5~~
11 ~~days--after--mailing--of--notice--is--considered--to--be--refusal--of~~
12 ~~appointment no later than 35 days after the petition has~~
13 ~~been approved for circulation, of the deadlines for~~
14 ~~submission of the committee's arguments.~~

15 (5) ~~The secretary of state shall--determine--which--of~~
16 ~~the--prospective--appointees--assenting--to--serve--on--the~~
17 ~~committee shall be appointed;--according--to--the--order--of~~
18 ~~preference--specified by the appointing authority; and shall~~
19 ~~so notify all--prospective--appointees--by--the--appointment~~
20 ~~deadline--specified--in subsection--(1) or (2); respectively;~~
21 Committees appointed under subsections (2)(b), (4), and (5)
22 of 13-27-402 must be vacated and have no further obligation
23 if the ballot measure for which they were appointed fails to
24 receive sufficient signatures to place it on the ballot.
25 The secretary of state shall notify the committee members of

1 the failure of a ballot measure to receive sufficient
2 signatures no later than 3 days after the filing deadline
3 set in 13-27-104."

4 NEW SECTION. Section 20. Repealer. Section 13-13-242,
5 MCA, is repealed.

6 NEW SECTION. Section 21. Extension of authority. Any
7 existing authority of the secretary of state to make rules
8 on the subject of the provisions of this act is extended to
9 the provisions of this act.

10 NEW SECTION. Section 22. Codification instructions.
11 (1) Section 5 4 is intended to be codified as an integral
12 part of Title 13, chapter 15, part 1, and the provisions of
13 Title 13, chapter 15, part 1, apply to section 5 4.

14 (2) Section ~~16~~ 15 is intended to be codified as an
15 integral part of Title 13, chapter 27, part 3, and the
16 provisions of Title 13, chapter 27, part 3, apply to section
17 ~~16~~ 15.

18 NEW SECTION. Section 23. Effective date. This act is
19 effective on passage and approval.

-End-

SENATE BILL NO. 260
INTRODUCED BY HARDING, VAUGHN
BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE, CLARIFY, AND UPDATE THE ELECTION LAWS; AMENDING SECTIONS 13-1-202, 13-2-102, 13-2-202, 13-2-207, 13-10-209, 13-13-116, 13-13-117, 13-13-119, 13-13-204, 13-13-205, 13-13-241, 13-13-311, 13-15-101, 13-15-104, 13-27-105, 13-27-303, 13-27-402, AND 13-27-403, MCA; REPEALING SECTION 13-13-242, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

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

(a) written directives and instructions relating to and based on the election laws;

(b) sample copies of prescribed and suggested forms; and

(c) advisory opinions on the effect of election laws other than those laws in chapters 35, 36, or 37 of this title.

(2) The secretary of state may prescribe the design of any election form required by law. He must seek the advice of election administrators and printers in designing the required forms.

(3) The secretary of state, with advice from election administrators, may adopt rules concerning election laws other than those in chapter 35, 36, or 37 of this title.

(3)(4) Each election administrator shall comply with the rules, directives, and instructions and shall provide election forms prepared as prescribed."

Section 1. Section 13-2-102, MCA, is amended to read:

"13-2-102. Deputy registrars. (1) A notary public who fulfills the requirements of subsection (4) may be act as a deputy registrar in the county in which he resides without having been appointed by the county governing body. If a notary public fails to fulfill the requirements of subsection (4), he may not act as a deputy registrar but may register electors in the county in which he resides as provided in 13-2-203(3).

(2) (a) The governing body of each county may at its discretion appoint two or more deputy registrars for each precinct in the county before March 15 1 of each even-numbered year.

(b) The number of deputy registrars, if appointed, shall be equally divided between the political parties

meeting the requirements of 13-10-601 unless one or more of the parties fail to submit the list required in subsection (3) or submit an incomplete list. A political party which qualifies under 13-10-501 may request the appointment of deputy registrars and shall submit a list for such appointments within 30 days of such qualification.

(c) An appointed deputy registrar must be a resident elector in the precinct for which appointed but may register electors in all precincts in the state.

(3) Deputy registrars shall be appointed from lists of individuals recommended by the qualified political parties, submitted by February 1 of even-numbered years. If no lists are submitted by political parties, the governing body may appoint two deputy registrars for each precinct without party recommendations. Failure of the governing body to make appointments in all precincts does not preclude making appointments in some precincts.

(4) Each election administrator shall provide training in registration procedures to all appointed deputy registrars in-registration-procedures and any notary public requesting the training and shall issue a certificate to each deputy-registrar on successful completion of the training. The training and certification must be completed by March 15 of each even-numbered year. A qualified deputy registrar may-not-register-voters without a

current certificate. All certificates expire on March 15 15 of each the following even-numbered year.

~~{5}--Deputy--registrars--shall--forward--all--completed cards--to--the--county-registrar-within-3-days--Registration cards-properly-executed-before-a-deputy-registrar--prior--to the-close-of-registration-shall-be-accepted-for-3-days-after the-close-of-registration-~~

~~{5}~~(5) Each election administrator shall certify to the secretary of state the name of each deputy registrar to whom a certificate has been issued. The secretary of state shall then compile a list of deputy registrars with current certificates and make that list available to each election administrator and the public.

(6) Deputy registrars shall forward all completed cards to the county registrar within 3 days. Registration cards properly executed before a deputy registrar prior to the close of registration shall be accepted for 3 days after the close of registration."

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

"13-2-202. Registration by personal appearance. An elector may register by appearing before the registrar in the-county-in-which-he-resides or a deputy registrar in--the county-in-which-he-resides and:

(1) answering any questions asked by the official concerning items of information called for in the

1 registration form;

2 (2) signing and verifying or affirming the affidavit
3 or affidavits on the form."

4 Section 3. Section 13-2-207, MCA, is amended to read:

5 "13-2-207. Notice of registration. (1) The election
6 administrator shall give or mail to each elector a notice,
7 affirming registration and giving the location of the
8 elector's polling place. Mailed notices must ~~have-printed-on~~
9 ~~the-address-side-the-words-"Do-Not-Forward,--Return--Postage~~
10 ~~Guaranteed"~~ conform to postal regulations to ensure return,
11 not forwarding, of undelivered notices.

12 (2) The election administrator must investigate the
13 reason for the return of any mailed notices and correct the
14 address on the registration form and mail a new notice or
15 cancel the registration of the elector if a diligent effort
16 fails to locate the elector named on the registration form."

17 NEW SECTION. Section 4. Write-in elections -- general
18 election. An individual elected by having his name written
19 on IN AT the general election ballot and receiving the
20 largest number of votes shall:

21 (1) file with the secretary of state or election
22 administrator, not later than 5 10 days after the official
23 canvass, a written declaration indicating his acceptance of
24 the position for which he was elected; and

25 (2) comply with the provisions of 13-37-225.

1 Section 5. Section 13-10-209, MCA, is amended to read:

2 "13-10-209. Arrangement of ballots. (1) (A) Ballots
3 for a primary election shall be arranged and printed in the
4 same manner and number as provided in chapter 12 for general
5 election ballots, except there shall be separate ballots for
6 each political party entitled to participate ~~and-separate~~
7 ~~nonpartisan-and-ballot-issue-ballots-if-necessary.~~ The name
8 of the political party shall be printed at the top of the
9 separate ballot for that party and need not be printed
10 opposite each candidate's name. ~~Separate-nonpartisan-and~~
11 ~~ballot-issue-ballots-must-be-printed,--if--necessary,--except~~
12 ~~as-provided-in-subsection-(6);~~

13 (B) NONPARTISAN OFFICES AND BALLOT ISSUES MAY BE
14 PRINTED ON SEPARATE BALLOTS OR MAY APPEAR ON THE SAME BALLOT
15 AS PARTISAN OFFICES IF:

16 (I) EACH SECTION IS CLEARLY IDENTIFIED AS SEPARATE;
17 AND

18 (II) SUCH NONPARTISAN OFFICES AND BALLOT ISSUES APPEAR
19 ON EACH PARTY'S BALLOT.

20 (2) It is not necessary to print a primary ballot for
21 a political party which does not have candidates for more
22 than half of the offices on the ballot in even-year
23 elections if no more than one candidate files for nomination
24 by that party for any of the offices on the ballot. The
25 secretary of state shall certify that no primary election is

necessary for that party if such is the case and shall certify or instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

(3) The separate ballots for each party shall be the same size and color. The stubs of each set of party ballots shall bear the same number. THE IF PRINTED AS A SEPARATE BALLOT, THE nonpartisan ballot shall be a different size or color than the party ballots, but the stubs shall be numbered in the same order as the party ballots.

(4) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may be a different size and color than the other ballots in the election, but the stubs shall be numbered in the same order.

(5) Each elector shall receive a set of party ballots and a nonpartisan and a ballot issue ballot if such ballots are printed.

~~(6) -- In primary election precincts using optical scan voting devices, nonpartisan offices and ballot issues may appear on the same ballot as partisan offices if:~~

~~(a) -- each section is clearly identified as separate, and~~

~~(b) -- such nonpartisan offices and ballot issues appear on each party's ballot."~~

Section 6. Section 13-13-116, MCA, is amended to read:

"13-13-116. Ballots to be stamped -- one ballot to elector. (1) Before delivering ballots to an elector, the election judges shall stamp the words "official ballot" on the back-near-the-top-of-the ballot. No part of the stamp may appear on the stub. They shall also stamp the name of the county, the number of the precinct, the date of the election, and any other information the election administrator believes necessary to distinguish the ballots from those used in any other election.

(2) Each elector shall receive from the election judges one of each type of ballot being used at the election."

Section 7. Section 13-13-117, MCA, is amended to read:

"13-13-117. Method of voting. (1) On receipt of his ballot, the elector must immediately retire to one of the booths and prepare his ballot.

(2) He shall prepare his ballot by marking an "x" in the square before the name of the individual or individuals for whom he intends to vote.

(3) If the ballot contains a ballot issue, he shall mark an "x" in the applicable square indicating his vote either for or against the issue.

(4) The elector may write the name of an individual for whom he wishes to vote in the blank space or affix a

1 preprinted label in the blank space ~~or over any other name~~
 2 and may vote for that individual by marking an "x" before
 3 the name. When the ballot is marked in this manner, it must
 4 be counted the same as though the name were printed upon the
 5 ballot and marked by the elector.

6 (5) An elector voting a ballot that will be counted by
 7 an optical scan ballot tabulating device shall mark his
 8 ballot in the manner prescribed on his ballot. However, his
 9 ballot must not be invalidated if he marks the voting
 10 positions with an "x".

11 ~~(5)(6)~~ After preparing his ballot, the elector must
 12 fold it so the face of the ballot will be concealed and the
 13 official stamp may be seen and hand it to the election
 14 judges.

15 ~~(6)(7)~~ The judge receiving the ballots shall remove
 16 the stubs in sight of the elector and deposit each ballot in
 17 the ballot box and each stub in a box for detached stubs.
 18 The judge must place the ballots in the ballot box
 19 immediately without opening or examining them.

20 ~~(7)(8)~~ No individual except an election judge may put
 21 a ballot, any paper resembling a ballot, or anything other
 22 than a ballot in a ballot box.

23 ~~(8)(9)~~ Any elector who spoils his ballot may, on
 24 returning the spoiled ballot, receive another in place of
 25 it."

1 Section 8. Section 13-13-119, MCA, is amended to read:

2 "13-13-119. Aid to disabled elector. (1) The election
 3 judges or ~~a qualified elector of the county~~ an individual
 4 chosen by the disabled elector as specified in subsection
 5 (4) may aid an elector who, because of physical disability
 6 or inability to read or write, needs assistance in marking
 7 his ballot.

8 (2) The election judges shall require the declaration
 9 of disability by the elector to be under oath and may
 10 administer the oath.

11 (3) The elector may be assisted by two judges who
 12 represent different parties. The judges must certify on the
 13 precinct register opposite the disabled elector's name that
 14 the ballot was marked with their assistance. The judges may
 15 not reveal information regarding the ballot.

16 (4) Instead of assistance as provided in subsection
 17 (3), the elector may request the assistance of any qualified
 18 elector of the county individual whom he designates to the
 19 judges to aid him in the marking of his ballot, and the
 20 elector individual chosen shall sign his name on the
 21 precinct register beside the name of the elector assisted.
 22 The individual chosen may not be the elector's employer, an
 23 agent of his employer, or an officer or agent of the
 24 elector's union.

25 (5) No elector other than the one who requires

1 assistance may divulge to anyone within the polling place
2 the name of any candidate for whom he intends to vote or may
3 ask or receive the assistance of any individual within the
4 polling place in the preparation of his ballot."

5 Section 9. Section 13-13-204, MCA, is amended to read:

6 "13-13-204. Authority to vote in person -- printing
7 error or ballot destroyed -- failure to receive ballot --
8 effect of absentee elector's death. (1) If an elector has
9 voted by absentee ballot but the absentee ballot contains
10 printing errors or omissions or-if-the-absentee-ballot-was
11 destroyed, the elector may vote in person in any manner at
12 his polling place.

13 (2) If an elector does not receive his absentee ballot
14 OR IF THE ABSENTEE BALLOT WAS DESTROYED, he may appear at
15 his polling place on election day and vote in person after
16 signing an affidavit, in the form prescribed by the
17 secretary of state, swearing that his ballot has not been
18 received OR WAS DESTROYED. BEFORE THE BALLOT IS GIVEN TO THE
19 ELECTOR, THE ELECTION JUDGE SHALL WRITE UPON THE BACK OF THE
20 BALLOT THE NUMBER OF THE BALLOT. THE BALLOT MAY BE CAST OUT
21 IF IT APPEARS TO THE COURT TO HAVE BEEN WRONGFULLY OR
22 ILLEGALLY VOTED.

23 (2)(3) If an elector votes by absentee ballot and dies
24 between the time of balloting and election day, his ballot
25 does not count."

1 Section 10. Section 13-13-205, MCA, is amended to
2 read:

3 "13-13-205. When ballots to be available. (1) The
4 election administrator shall ensure that ballots are printed
5 and available for absentee voting at least 45 days prior to
6 an election for those elections held in compliance with
7 13-1-104(1) and 13-1-107(1).

8 (2) For elections held in compliance with 13-1-104(2)
9 AND (3), and 13-1-107(2), the election administrator shall
10 ensure that ballots are printed and available for absentee
11 voting at least 20 ays prior to an election."

12 Section 11. Section 13-13-241, MCA, is amended to
13 read:

14 "13-13-241. Examination of absentee ballot envelopes
15 and affirmations while polls open -- deposit of absentee and
16 unvoted ballots. (1) While the polls are open, the election
17 judges may compare the signature of the elector on the
18 absentee ballot request and affirmation. If they find that
19 the signatures correspond, that the affirmation is
20 sufficient, and that the absentee elector is qualified and
21 has-not--yet--voted, they MAY OPEN THE ABSENTEE BALLOT
22 ENVELOPE. shall--place-the-absentee-electors-envelope-in-a
23 box-or--envelope--marked--"unopened-----checked--and--valid
24 absentee-ballots". may-after-removing-the-stub, deposit-the
25 absentee--elector's--ballot--in-the-ballot-box--in-a-primary

~~election, the unvoted ballots must be deposited in the unvoted ballot box without being removed from the ballot enclosure envelopes;~~

~~(2) If the absentee ballot does not meet the requirements specified in subsection (1), it shall be rejected. The election judges, without opening the absentee ballot envelope, shall mark across it the reason for rejection, and a majority of the judges shall sign their initials. Unopened rejected absentee ballot envelopes shall be handled in the same manner as provided for rejected ballots in 13-13-243. upon opening the absentee ballot envelope, the election judges find that the number on the ballot does not correspond to the number on the certificate of the election administrator, the ballot must be rejected. The reason for rejection must be marked on the back of the ballot and initialed by a majority of the election judges. IF THE ABSENTEE BALLOT DOES NOT MEET THE REQUIREMENTS SPECIFIED IN SUBSECTION (1), IT MUST BE REJECTED. THE ELECTION JUDGES, WITHOUT OPENING THE ABSENTEE BALLOT ENVELOPE, SHALL MARK ACROSS IT THE REASON FOR REJECTION AND A MAJORITY OF THE JUDGES SHALL SIGN THEIR INITIALS. UNOPENED REJECTED ABSENTEE BALLOT ENVELOPES MUST BE HANDLED IN THE SAME MANNER AS PROVIDED FOR REJECTED BALLOTS IN 13-13-243.~~

(3) AFTER OPENING THE ABSENTEE ENVELOPE AND WITHOUT

UNFOLDING THE BALLOTS OR PERMITTING THEM TO BE EXAMINED, THE ELECTION JUDGES SHALL ASCERTAIN WHETHER THE STUBS ARE ATTACHED OR ENCLOSED AND WHETHER THE NUMBERS CORRESPOND TO THE NUMBERS IN THE CERTIFICATE OF THE ELECTION ADMINISTRATOR. IF SO, THEY SHALL DETACH THE STUBS AND DEPOSIT THE STUBS AND BALLOTS IN THE PROPER BALLOT BOXES. IN A PRIMARY ELECTION, THE UNVOTED BALLOTS MUST BE DEPOSITED IN THE UNVOTED BALLOT BOX WITHOUT BEING REMOVED FROM THEIR ENCLOSURE ENVELOPE.

(4) IF UPON OPENING THE ABSENTEE BALLOT ENVELOPE IT IS FOUND THAT THE NUMBER DOES NOT CORRESPOND TO THE NUMBER ON THE CERTIFICATE OF THE ELECTION ADMINISTRATOR, THE BALLOT MUST BE REJECTED. THE REASON FOR REJECTION MUST BE MARKED ON THE BACK OF THE BALLOT OR BALLOTS, AND THE STATEMENT MUST BE INITIALED BY A MAJORITY OF THE ELECTION JUDGES."

Section 12. Section 13-13-311, MCA, is amended to read:

"13-13-311. Vote by challenged elector. (1) Whenever an individual's right to vote at an election is challenged under 13-2-404 or 13-13-301 and the challenge has been determined in favor of the individual challenged as provided in 13-13-307, an election judge shall write in the pollbook at the end of the individual's name the words "challenged and sworn", with the name of the challenger, if known. The elector so challenged shall must be allowed to vote by paper

1 ballot. The election judge shall then write upon the back of
2 the ballot offered by the challenged elector the number of
3 his ballot. The ballot may be cast out if it appears to the
4 court to have been for any reason wrongfully or illegally
5 voted.

6 (2) Placing information on a ballot or pollbook under
7 provision THE PROVISIONS of subsection (1) OR OF
8 13-13-204(2) or divulging such information in a legal
9 proceeding subsequent to the election does not constitute a
10 violation of 13-35-202 or 13-35-207."

11 Section 13. Section 13-15-101, MCA, is amended to
12 read:

13 "13-15-101. Votes to be publicly counted upon closing
14 of polls. (1) When the polls are closed, the election judges
15 shall immediately count the votes. The count shall be public
16 and continue without adjournment until completed and the
17 result is publicly declared.

18 (2) Immediately after all the ballots are counted in
19 each--precinct BY PRECINCT, the election judges shall copy
20 the total votes cast for each candidate and for and against
21 each proposition on the return forms furnished by the
22 election administrator.

23 (3) The election judges shall immediately post one of
24 the return forms at the polling place of counting and return
25 a copy to the election administrator. Both forms shall be

1 signed by all the election judges completing the count."

2 Section 14. Section 13-15-104, MCA, is amended to
3 read:

4 "13-15-104. Counting board for absentee ballots. (1)
5 The election administrator shall:

6 (a) give special instructions to any counting board
7 for absentee ballots appointed under 13-4-101 on the proper
8 procedures for counting the absentee ballots; and

9 (b) provide the forms and supplies necessary for the
10 board to perform its duties.

11 (2) The counting board for absentee ballots shall:

12 (a) be sequestered in a room separate from where
13 ballots are being cast;

14 (b) at any time prior to the closing of the polls but
15 not before the polls open, start the count of the absentee
16 votes cast; and

17 (c) follow the procedures outlined in ~~13-13-242~~ and
18 13-13-241 AND 13-15-103 for the counting of the votes cast.

19 (3) No election judge or other individual having
20 access to any results of early counting may disclose the
21 information while the polls are open, and he must remain
22 sequestered until the closing of the polls.

23 (4) (a) In addition to the official oath taken and
24 subscribed to by the election judges, the members of the
25 counting board for absentee ballots shall complete and sign

1 the following affirmation: "I,, will not discuss or
2 disclose or allow anyone else to discuss or disclose to
3 anyone the results of the early counting of votes while the
4 polls are open."

5 (b) The chief election judge shall witness and sign
6 the affirmation."

7 NEW SECTION. Section 15. Withdrawal of signatures.

8 (1) Signatures may be withdrawn from a petition for
9 constitutional amendment, constitutional convention,
10 initiative, or referendum up to the time of final submission
11 of petition sheets as provided in 13-27-301.

12 (2) The secretary of state shall prescribe the form to
13 be used by an elector desiring to have his signature
14 withdrawn from a petition.

15 Section 16. Section 13-27-105, MCA, is amended to
16 read:

17 "13-27-105. Effective date of initiative and
18 referendum issues. (1) Unless the petition placing an
19 initiative issue on the ballot states otherwise, an
20 initiative issue, other than a constitutional amendment,
21 approved by the people is effective on October 1 following
22 approval. ~~However,--if~~ If the issue delegates rulemaking
23 authority, it is effective no sooner than October 1
24 following approval.

25 (2) A constitutional amendment proposed by initiative

1 or by the legislature and approved by the people is
2 effective on July 1 following approval unless the amendment
3 provides otherwise.

4 (3) Unless specifically provided by the legislature in
5 an act referred by it to the people or until suspended by a
6 petition signed by at least 15% of the qualified electors in
7 a majority of the legislative representative districts, an
8 act referred to the people is in effect as provided by law
9 until it is approved or rejected at the election. An act
10 that is rejected is repealed effective the date the result
11 of the canvass is filed by the secretary of state under
12 13-27-503. An act referred to the people that was in effect
13 at the time of the election and is approved by the people
14 remains in effect. An act that was suspended by a petition
15 and is approved by the people is effective the date the
16 result of the canvass is filed by the secretary of state
17 under 13-27-503. An act referred by the legislature that
18 contains an effective date following the election becomes
19 effective on that date if approved by the people. An act
20 that provides no effective date and whose substantive
21 provisions were delayed by the legislature pending approval
22 at an election and that is approved is effective October 1
23 following the election."

24 Section 17. Section 13-27-303, MCA, is amended to
25 read:

1 "13-27-303. Verification of signatures by county
 2 official -- allocating voters following reapportionment --
 3 duplicate signatures. (1) The Within-2 EXCEPT AS REQUIRED BY
 4 13-27-104, WITHIN 4 weeks after receiving the sheets or
 5 sections of a petition, the county official receiving the
 6 sheets-or-sections-of-a-petition shall check the names of
 7 all signers to verify they are registered electors of the
 8 county. In addition, the official shall randomly select
 9 signatures on each sheet or section and compare them with
 10 the signatures of the electors as they appear in the
 11 registration records of the office. If all the randomly
 12 selected signatures appear to be genuine, the number of
 13 signatures of registered electors on the sheet or section
 14 may be certified to the secretary of state without further
 15 comparison of signatures. If any of the randomly selected
 16 signatures do not appear to be genuine, all signatures on
 17 that sheet or section must be compared with the signatures
 18 in the registration records of the office.

19 (2) For the purpose of allocating the signatures of
 20 voters among the several legislative representative
 21 districts of the state as required to certify a petition for
 22 a ballot issue under the provisions of this chapter
 23 following the filing of a districting and apportionment plan
 24 under 5-1-111 and before members of the house of
 25 representatives have been elected and qualified under the

1 plan, the legislative representative districts among which
 2 the signatures must be allocated must be those in existence
 3 when the plan was filed.

4 (3) Upon discovery of FRAUDULENT SIGNATURES OR
 5 duplicate signatures of an elector on any one issue, the
 6 election administrator may submit THE NAME OF THE ELECTOR OR
 7 THE PETITION CIRCULATOR, OR BOTH, such-name to the county
 8 attorney to be investigated under the provisions of
 9 13-27-106 and 13-35-207."

10 Section 18. Section 13-27-402, MCA, is amended to
 11 read:

12 "13-27-402. Committees to prepare arguments for and
 13 against ballot issues. (1) The arguments advocating approval
 14 or rejection of the ballot issue and rebuttal arguments
 15 shall be submitted to the secretary of state by committees
 16 appointed as provided in this section:.

17 ~~(a)(2) The committee--advocating--approval--of--an--act~~
 18 ~~referred--to--the--people--or--a--constitutional--amendment~~
 19 ~~proposed-by-the-legislature-or-an-act-referred-to-the-people~~
 20 ~~by--referendum--petition following committees~~ shall be
 21 composed of one senator known to favor the measure,
 22 appointed by the president of the senate; one representative
 23 known to favor the measure, appointed by the speaker of the
 24 house of representatives; and one individual who need not be
 25 a member of the legislature, appointed by the first two

members:

(a) the committee advocating approval of an act referred to the people or of a constitutional amendment proposed by the legislature; or

(b) the committee advocating approval of an act referred to the people by referendum petition.

(b)(3) The committee advocating rejection of a--ballot issue an act referred to the people or of a constitutional amendment proposed by the legislature shall be composed of one senator appointed by the president of the senate; one representative appointed by the speaker of the house of representatives; and one individual who need not be a member of the legislature, appointed by the first two members. Whenever possible, the members shall be known to have opposed the issue.

(c)(4) A The following shall be three-member committee advocating--approval--of-a-ballot-issue-proposed-by-any-type of-initiative-petition-or-advocating-rejection-of-any-ballot issue-that-is-a-legislative-act-referred-to--the--people--by referendum-petition committees and shall be appointed by the person submitting the petition to the secretary of state under the provisions of 13-27-202:

(a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any ballot

issue that is a legislative act referred to the people by referendum petition.

(d)(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition shall be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member shall be appointed by the first four members. All members shall be known to favor rejection of the issue.

(f)(5) No person may be required to serve on any committee under this section, and the person making an appointment must have written acceptance of appointment from the appointee."

Section 19. Section 13-27-403, MCA, is amended to read:

"13-27-403. Appointment to committee. (1) Appointments to committees advocating approval or rejection of an act referred to the people or a constitutional amendment proposed by the legislature shall be made no later than 4 6 months before the election at which the ballot issue will be voted on by the people. All--persons--responsible---for appointing--members--to--such-committees-shall-submit-to-the secretary--of--state--the--names--and--addresses--of---three prospective--appointees--for-each-position,--set-forth-in-the order-of-preference-of-appointment,--no-later--than--3--weeks

1 ~~before the deadline for making such appointments.~~

2 (2) Appointments to committees advocating approval or
3 rejection of a ballot measure referred to the people by
4 referendum petition or proposed by any type of initiative
5 petition shall be made no later than ~~10~~ 30 days after the
6 measure is certified ~~to the governor~~ approved for
7 circulation by the secretary of state. All persons
8 responsible for appointing members to the committee shall
9 submit to the secretary of state the names and addresses of
10 ~~two prospective~~ the appointees for each position, set forth
11 ~~in the order of preference of appointment, no later than 2~~
12 ~~weeks after the final date for filing the petition in~~
13 ~~accordance with 13-27-301, no later than the date set by~~
14 this subsection. Such submission must include the written
15 acceptance of appointment from each appointee required by
16 section 13-27-402(6).

17 (3) All prospective appointees to a committee pursuant
18 to subsection (1) must be notified by the secretary of state
19 by certified mail, with return receipt requested, ~~at least~~
20 ~~15 days before the appointment deadline specified in~~
21 ~~subsection (1). A prospective appointee may assent or~~
22 ~~decline to serve on the committee by so informing the~~
23 ~~secretary of state. Back of response to the secretary of~~
24 ~~state for any reason 10 days after mailing of notice is~~
25 considered to be refusal of appointment no later than 5 days

1 after the deadline set for appointment of committee members,
2 of the deadlines for submission of the committee's
3 arguments.

4 (4) All prospective appointees to a committee pursuant
5 to subsection (2) must be notified by the secretary of state
6 by certified mail, with return receipt requested, ~~at least 8~~
7 ~~days before the appointment deadline specified in subsection~~
8 ~~(2). A prospective appointee may assent or decline to serve~~
9 ~~on the committee by so informing the secretary of state.~~
10 ~~Back of response to the secretary of state for any reason 5~~
11 ~~days after mailing of notice is considered to be refusal of~~
12 appointment no later than 35 days after the petition has
13 been approved for circulation, of the deadlines for
14 submission of the committee's arguments.

15 (5) ~~The secretary of state shall determine which of~~
16 ~~the prospective appointees assenting to serve on the~~
17 ~~committee shall be appointed, according to the order of~~
18 ~~preference specified by the appointing authority, and shall~~
19 ~~so notify all prospective appointees by the appointment~~
20 ~~deadline specified in subsection (1) or (2), respectively.~~
21 Committees appointed under subsections (2)(b), (4), and (5)
22 of 13-27-402 must be vacated and have no further obligation
23 if the ballot measure for which they were appointed fails to
24 receive sufficient signatures to place it on the ballot.
25 The secretary of state shall notify the committee members of

1 the failure of a ballot measure to receive sufficient
2 signatures no later than 3 days after the filing deadline
3 set in 13-27-104."

4 NEW SECTION. Section 20. Repealer. Section 13-13-242,
5 MCA, is repealed.

6 NEW SECTION. Section 21. Extension of authority. Any
7 existing authority of the secretary of state to make rules
8 on the subject of the provisions of this act is extended to
9 the provisions of this act.

10 NEW SECTION. Section 22. Codification instructions.
11 (1) Section 5 4 is intended to be codified as an integral
12 part of Title 13, chapter 15, part 1, and the provisions of
13 Title 13, chapter 15, part 1, apply to section 5 4.

14 (2) Section ~~16~~ 15 is intended to be codified as an
15 integral part of Title 13, chapter 27, part 3, and the
16 provisions of Title 13, chapter 27, part 3, apply to section
17 ~~16~~ 15.

18 NEW SECTION. Section 23. Effective date. This act is
19 effective on passage and approval.

-End-

SENATE BILL NO. 260

INTRODUCED BY HARDING, VAUGHN

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE, CLARIFY, AND UPDATE THE ELECTION LAWS; AMENDING SECTIONS ~~13-1-202~~, 13-2-102, 13-2-202, 13-2-207, 13-10-209, 13-13-116, 13-13-117, 13-13-119, 13-13-204, 13-13-205, 13-13-241, 13-13-311, 13-15-101, 13-15-104, 13-27-105, 13-27-303, 13-27-402, AND 13-27-403, MCA; REPEALING SECTION 13-13-242, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. ~~Section 13-1-202, MCA, is amended to read:~~

~~"13-1-202. Forms and rules prescribed by chief election officer. (1) In carrying out his responsibilities under 13-1-201, the secretary of state shall prepare and deliver to the election administrators:~~

~~(a) written directives and instructions relating to and based on the election laws;~~

~~(b) sample copies of prescribed and suggested forms; and~~

~~(c) advisory opinions on the effect of election laws other than those laws in chapters 35, 36, or 37 of this title.~~

~~(2) The secretary of state may prescribe the design of any election form required by law. He must seek the advice of election administrators and printers in designing the required forms.~~

~~(3) The secretary of state, with advice from election administrators, may adopt rules concerning election laws other than those in chapter 35, 36, or 37 of this title.~~

~~(3)(4) Each election administrator shall comply with the rules, directives, and instructions and shall provide election forms prepared as prescribed."~~

Section 1. Section 13-2-102, MCA, is amended to read:

"13-2-102. Deputy registrars. (1) A notary public who fulfills the requirements of subsection (4) may be act as a deputy registrar in the county in which he resides, without having been appointed by the county governing body. If a notary public fails to fulfill the requirements of subsection (4), he may not act as a deputy registrar but may register electors in the county in which he resides as provided in 13-2-203(3).

(2) (a) The governing body of each county may at its discretion appoint two or more deputy registrars for each precinct in the county before March 15 1 of each even-numbered year.

(b) The number of deputy registrars, if appointed, shall be equally divided between the political parties

meeting the requirements of 13-10-601 unless one or more of the parties fail to submit the list required in subsection (3) or submit an incomplete list. A political party which qualifies under 13-10-501 may request the appointment of deputy registrars and shall submit a list for such appointments within 30 days of such qualification.

(c) An appointed deputy registrar must be a resident elector in the precinct for which appointed but may register electors in all precincts in the state.

(3) Deputy registrars shall be appointed from lists of individuals recommended by the qualified political parties, submitted by February 1 of even-numbered years. If no lists are submitted by political parties, the governing body may appoint two deputy registrars for each precinct without party recommendations. Failure of the governing body to make appointments in all precincts does not preclude making appointments in some precincts.

(4) Each election administrator shall provide training in registration procedures to all appointed deputy registrars in-registration-procedures and any notary public requesting the training and shall issue a certificate to each deputy-registrar on successful completion of the training. The training and certification must be completed by March 15 of each even-numbered year. A No one is a qualified deputy registrar may-not-register-voters without a

current certificate. All certificates expire on March 15 ~~15~~ of each the following even-numbered year.

~~(5)--Deputy--registrars--shall--forward--all--completed cards--to--the--county-registrar--within--3--days--Registration cards--properly--executed--before--a--deputy-registrar--prior--to the--close--of--registration--shall--be--accepted--for--3--days--after the--close--of--registration--~~

~~(6)(5)~~ Each election administrator shall certify to the secretary of state the name of each deputy registrar to whom a certificate has been issued. The secretary of state shall then compile a list of deputy registrars with current certificates and make that list available to each election administrator and the public.

(6) Deputy registrars shall forward all completed cards to the county registrar within 3 days. Registration cards properly executed before a deputy registrar prior to the close of registration shall be accepted for 3 days after the close of registration."

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

"13-2-202. Registration by personal appearance. An elector may register by appearing before the registrar in the-county-in-which-he-resides or a deputy registrar in--the county-in-which-he-resides and:

(1) answering any questions asked by the official concerning items of information called for in the

1 registration form;

2 (2) signing and verifying or affirming the affidavit
3 or affidavits on the form."

4 Section 3. Section 13-2-207, MCA, is amended to read:

5 "13-2-207. Notice of registration. (1) The election
6 administrator shall give or mail to each elector a notice,
7 affirming registration and giving the location of the
8 elector's polling place. Mailed notices must have-printed-on
9 the-address-side-the-words-"Do-Not-Forward,--Return--Postage
10 Guaranteed" conform to postal regulations to ensure return,
11 not forwarding, of undelivered notices.

12 (2) The election administrator must investigate the
13 reason for the return of any mailed notices and correct the
14 address on the registration form and mail a new notice or
15 cancel the registration of the elector if a diligent effort
16 fails to locate the elector named on the registration form."

17 NEW SECTION. Section 4. Write-in elections -- general
18 election. (1) An individual elected by having his name
19 written on IN AT the general election ballot and receiving
20 the largest number of votes shall:

21 (1)(A) file with the secretary of state or election
22 administrator, not later than 5 10 days after the official
23 canvass, a written declaration indicating his acceptance of
24 the position for which he was elected; and

25 (2)(B) comply with the provisions of 13-37-225.

1 (2) IF AN INDIVIDUAL FAILS TO FILE THE DECLARATION AS
2 REQUIRED UNDER SUBSECTION (1)(A), HE MAY NOT ASSUME THE
3 POSITION FOR WHICH HE WAS ELECTED.

4 Section 5. Section 13-10-209, MCA, is amended to read:

5 "13-10-209. Arrangement of ballots. (1) (A) Ballots
6 for a primary election shall be arranged and printed in the
7 same manner and number as provided in chapter 12 for general
8 election ballots, except there shall be separate ballots for
9 each political party entitled to participate and-separate
10 nonpartisan-and-ballot-issue-ballots-if-necessary. The name
11 of the political party shall be printed at the top of the
12 separate ballot for that party and need not be printed
13 opposite each candidate's name. Separate-nonpartisan-and
14 ballot-issue-ballots-must-be-printed,if--necessary,--except
15 as-provided-in-subsection-(6);

16 (B) NONPARTISAN OFFICES AND BALLOT ISSUES MAY BE
17 PRINTED ON SEPARATE BALLOTS OR MAY APPEAR ON THE SAME BALLOT
18 AS PARTISAN OFFICES IF:

19 (I) EACH SECTION IS CLEARLY IDENTIFIED AS SEPARATE;
20 AND

21 (II) SUCH NONPARTISAN OFFICES AND BALLOT ISSUES APPEAR
22 ON EACH PARTY'S BALLOT.

23 (2) It is not necessary to print a primary ballot for
24 a political party which does not have candidates for more
25 than half of the offices on the ballot in even-year

elections if no more than one candidate files for nomination by that party for any of the offices on the ballot. The secretary of state shall certify that no primary election is necessary for that party if such is the case and shall certify or instruct the election administrator to certify the names of the candidates for that party for the general election ballot only.

(3) The separate ballots for each party shall be the same size and color. The stubs of each set of party ballots shall bear the same number. ~~The IF PRINTED AS A SEPARATE BALLOT, THE~~ nonpartisan ballot shall be a different size or color than the party ballots, but the stubs shall be numbered in the same order as the party ballots.

(4) If a ballot issue is to be voted on at a primary election, it may be placed on the nonpartisan ballot or a separate ballot. A separate ballot may be a different size and color than the other ballots in the election, but the stubs shall be numbered in the same order.

(5) Each elector shall receive a set of party ballots and a nonpartisan and a ballot issue ballot if such ballots are printed.

~~(6)--In--primary--election-precincts-using-optical-scan voting-devices, nonpartisan-offices-and--ballot--issues--may appear-on-the-same-ballot-as-partisan-offices-if:~~

~~(a)--each--section--is--clearly-identified-as-separate;~~

and

~~(b)--such-nonpartisan-offices-and-ballot-issues--appear on-each-party's-ballot--"~~

Section 6. Section 13-13-116, MCA, is amended to read:

"13-13-116. Ballots to be stamped -- one ballot to elector. (1) Before delivering ballots to an elector, the election judges shall stamp the words "official ballot" on the ~~back-near-the-top-of-the~~ ballot. No part of the stamp may appear on the stub. They shall also stamp the name of the county, the number of the precinct, the date of the election, and any other information the election administrator believes necessary to distinguish the ballots from those used in any other election.

(2) Each elector shall receive from the election judges one of each type of ballot being used at the election."

Section 7. Section 13-13-117, MCA, is amended to read:

"13-13-117. Method of voting. (1) On receipt of his ballot, the elector must immediately retire to one of the booths and prepare his ballot.

(2) He shall prepare his ballot by marking an "x" in the square before the name of the individual or individuals for whom he intends to vote.

(3) If the ballot contains a ballot issue, he shall mark an "x" in the applicable square indicating his vote

1 either for or against the issue.

2 (4) The elector may write the name of an individual
3 for whom he wishes to vote in the blank space or affix a
4 preprinted label in the blank space ~~or over any other name~~
5 and may vote for that individual by marking an "x" before
6 the name. When the ballot is marked in this manner, it must
7 be counted the same as though the name were printed upon the
8 ballot and marked by the elector.

9 (5) An elector voting a ballot that will be counted by
10 an optical scan ballot tabulating device shall mark his
11 ballot in the manner prescribed on his ballot. However, his
12 ballot must not be invalidated if he marks the voting
13 positions with an "x".

14 ~~(5)(6)~~ After preparing his ballot, the elector must
15 fold it so the face of the ballot will be concealed and the
16 official stamp may be seen and hand it to the election
17 judges.

18 ~~(6)(7)~~ The judge receiving the ballots shall remove
19 the stubs in sight of the elector and deposit each ballot in
20 the ballot box and each stub in a box for detached stubs.
21 The judge must place the ballots in the ballot box
22 immediately without opening or examining them.

23 ~~(7)(8)~~ No individual except an election judge may put
24 a ballot, any paper resembling a ballot, or anything other
25 than a ballot in a ballot box.

1 ~~(8)(9)~~ Any elector who spoils his ballot may, on
2 returning the spoiled ballot, receive another in place of
3 it."

4 Section 8. Section 13-13-119, MCA, is amended to read:

5 "13-13-119. Aid to disabled elector. (1) The election
6 judges or ~~a--qualified elector of the county~~ an individual
7 chosen by the disabled elector as specified in subsection
8 (4) may aid an elector who, because of physical disability
9 or inability to read or write, needs assistance in marking
10 his ballot.

11 (2) The election judges shall require the declaration
12 of disability by the elector to be under oath and may
13 administer the oath.

14 (3) The elector may be assisted by two judges who
15 represent different parties. The judges must certify on the
16 precinct register opposite the disabled elector's name that
17 the ballot was marked with their assistance. The judges may
18 not reveal information regarding the ballot.

19 (4) Instead of assistance as provided in subsection
20 (3), the elector may request the assistance of any qualified
21 elector of the county individual whom he designates to the
22 judges to aid him in the marking of his ballot, and the
23 elector individual chosen shall sign his name on the
24 precinct register beside the name of the elector assisted.
25 The individual chosen may not be the elector's employer, an

1 agent of his employer, or an officer or agent of the
 2 elector's union.

3 (5) No elector other than the one who requires
 4 assistance may divulge to anyone within the polling place
 5 the name of any candidate for whom he intends to vote or may
 6 ask or receive the assistance of any individual within the
 7 polling place in the preparation of his ballot."

8 Section 9. Section 13-13-204, MCA, is amended to read:

9 "13-13-204. Authority to vote in person -- printing
 10 error or ballot destroyed -- failure to receive ballot --
 11 effect of absentee elector's death. (1) If an elector has
 12 voted by absentee ballot but the absentee ballot contains
 13 printing errors or omissions ~~or-if-the-absentee-ballot-was~~
 14 ~~destroyed~~, the elector may vote in person in any manner at
 15 his polling place.

16 (2) If an elector does not receive his absentee ballot
 17 OR IF THE ABSENTEE BALLOT WAS DESTROYED, he may appear at
 18 his polling place on election day and vote in person after
 19 signing an affidavit, in the form prescribed by the
 20 secretary of state, swearing that his ballot has not been
 21 received OR WAS DESTROYED. BEFORE THE BALLOT IS GIVEN TO THE
 22 ELECTOR, THE ELECTION JUDGE SHALL WRITE UPON THE BACK OF THE
 23 BALLOT THE NUMBER OF THE BALLOT. THE BALLOT MAY BE CAST OUT
 24 IF IT APPEARS TO THE COURT TO HAVE BEEN WRONGFULLY OR
 25 ILLEGALLY VOTED.

1 ~~(2)(3)~~ If an elector votes by absentee ballot and dies
 2 between the time of balloting and election day, his ballot
 3 does not count."

4 Section 10. Section 13-13-205, MCA, is amended to
 5 read:

6 "13-13-205. When ballots to be available. (1) The
 7 election administrator shall ensure that ballots are printed
 8 and available for absentee voting at least 45 days prior to
 9 an election for those elections held in compliance with
 10 13-1-104(1) and 13-1-107(1).

11 (2) For elections held in compliance with 13-1-104(2)
 12 AND (3), and 13-1-107(2), the election administrator shall
 13 ensure that ballots are printed and available for absentee
 14 voting at least 20 days prior to an election."

15 Section 11. Section 13-13-241, MCA, is amended to
 16 read:

17 "13-13-241. Examination of absentee ballot envelopes
 18 and affirmations while polls open -- deposit of absentee and
 19 unvoted ballots. (1) While the polls are open, the election
 20 judges may compare the signature of the elector on the
 21 absentee ballot request and affirmation. If they find that
 22 the signatures correspond, that the affirmation is
 23 sufficient, and that the absentee elector is qualified and
 24 ~~has-not--yet--voted~~, they MAY OPEN THE ABSENTEE BALLOT
 25 ENVELOPE. shall--place-the-absentee-electors-envelope-in-a

1 ~~box or envelope marked "unopened" checked and valid~~
 2 ~~absentee ballots. may after removing the stub deposit the~~
 3 ~~absentee elector's ballot in the ballot box in a primary~~
 4 ~~election the unvoted ballots must be deposited in the~~
 5 ~~unvoted ballot box without being removed from the ballot~~
 6 ~~enclosure envelopes.~~

7 (2) ~~if the absentee ballot does not meet the~~
 8 ~~requirements specified in subsection (1), it shall be~~
 9 ~~rejected. The election judges, without opening the absentee~~
 10 ~~ballot envelope, shall mark across it the reason for~~
 11 ~~rejection, and a majority of the judges shall sign their~~
 12 ~~initials. Unopened rejected absentee ballot envelopes shall~~
 13 ~~be handled in the same manner as provided for rejected~~
 14 ~~ballots in 13-13-243. upon opening the absentee ballot~~
 15 ~~envelope, the election judges find that the number on the~~
 16 ~~ballot does not correspond to the number on the certificate~~
 17 ~~of the election administrator, the ballot must be rejected.~~
 18 ~~The reason for rejection must be marked on the back of the~~
 19 ~~ballot and initialed by a majority of the election judges.~~
 20 IF THE ABSENTEE BALLOT DOES NOT MEET THE REQUIREMENTS
 21 SPECIFIED IN SUBSECTION (1), IT MUST BE REJECTED. THE
 22 ELECTION JUDGES, WITHOUT OPENING THE ABSENTEE BALLOT
 23 ENVELOPE, SHALL MARK ACROSS IT THE REASON FOR REJECTION AND
 24 A MAJORITY OF THE JUDGES SHALL SIGN THEIR INITIALS.
 25 UNOPENED REJECTED ABSENTEE BALLOT ENVELOPES MUST BE HANDLED

1 IN THE SAME MANNER AS PROVIDED FOR REJECTED BALLOTS IN
 2 13-13-243.

3 (3) AFTER OPENING THE ABSENTEE ENVELOPE AND WITHOUT
 4 UNFOLDING THE BALLOTS OR PERMITTING THEM TO BE EXAMINED, THE
 5 ELECTION JUDGES SHALL ASCERTAIN WHETHER THE STUBS ARE
 6 ATTACHED OR ENCLOSED AND WHETHER THE NUMBERS CORRESPOND TO
 7 THE NUMBERS IN THE CERTIFICATE OF THE ELECTION
 8 ADMINISTRATOR. IF SO, THEY SHALL DETACH THE STUBS AND
 9 DEPOSIT THE STUBS AND BALLOTS IN THE PROPER BALLOT BOXES. IN
 10 A PRIMARY ELECTION, THE UNVOTED BALLOTS MUST BE DEPOSITED IN
 11 THE UNVOTED BALLOT BOX WITHOUT BEING REMOVED FROM THEIR
 12 ENCLOSURE ENVELOPE.

13 (4) IF UPON OPENING THE ABSENTEE BALLOT ENVELOPE IT IS
 14 FOUND THAT THE NUMBER DOES NOT CORRESPOND TO THE NUMBER ON
 15 THE CERTIFICATE OF THE ELECTION ADMINISTRATOR, THE BALLOT
 16 MUST BE REJECTED. THE REASON FOR REJECTION MUST BE MARKED ON
 17 THE BACK OF THE BALLOT OR BALLOTS, AND THE STATEMENT MUST BE
 18 INITIALED BY A MAJORITY OF THE ELECTION JUDGES."

19 Section 12. Section 13-13-311, MCA, is amended to
 20 read:

21 "13-13-311. Vote by challenged elector. (1) Whenever
 22 an individual's right to vote at an election is challenged
 23 under 13-2-404 or 13-13-301 and the challenge has been
 24 determined in favor of the individual challenged as provided
 25 in 13-13-307, an election judge shall write in the pollbook

1 at the end of the individual's name the words "challenged
2 and sworn", with the name of the challenger, if known. The
3 elector so challenged ~~shall~~ must be allowed to vote by-paper
4 ballot. The election judge shall then write upon the back of
5 the ballot offered by the challenged elector the number of
6 his ballot. The ballot may be cast out if it appears to the
7 court to have been for any reason wrongfully or illegally
8 voted.

9 (2) Placing information on a ballot or pollbook under
10 provision THE PROVISIONS of subsection (1) OR OF
11 13-13-204(2) or divulging such information in a legal
12 proceeding subsequent to the election does not constitute a
13 violation of 13-35-202 or 13-35-207."

14 Section 13. Section 13-15-101, MCA, is amended to
15 read:

16 "13-15-101. Votes to be publicly counted upon closing
17 of polls. (1) When the polls are closed, the election judges
18 shall immediately count the votes. The count shall be public
19 and continue without adjournment until completed and the
20 result is publicly declared.

21 (2) Immediately after all the ballots are counted ~~in~~
22 ~~each-precinct~~ BY PRECINCT, the election judges shall copy
23 the total votes cast for each candidate and for and against
24 each proposition on the return forms furnished by the
25 election administrator.

1 (3) The election judges shall immediately post one of
2 the return forms at the polling place of counting and return
3 a copy to the election administrator. Both forms shall be
4 signed by all the election judges completing the count."

5 Section 14. Section 13-15-104, MCA, is amended to
6 read:

7 "13-15-104. Counting board for absentee ballots. (1)
8 The election administrator shall:

9 (a) give special instructions to any counting board
10 for absentee ballots appointed under 13-4-101 on the proper
11 procedures for counting the absentee ballots; and

12 (b) provide the forms and supplies necessary for the
13 board to perform its duties.

14 (2) The counting board for absentee ballots shall:

15 (a) be sequestered in a room separate from where
16 ballots are being cast;

17 (b) at any time prior to the closing of the polls but
18 not before the polls open, start the count of the absentee
19 votes cast; and

20 (c) follow the procedures outlined in ~~13-13-242~~ and
21 13-13-241 AND 13-15-103 for the counting of the votes cast.

22 (3) No election judge or other individual having
23 access to any results of early counting may disclose the
24 information while the polls are open, and he must remain
25 sequestered until the closing of the polls.

(4) (a) In addition to the official oath taken and subscribed to by the election judges, the members of the counting board for absentee ballots shall complete and sign the following affirmation: "I,, will not discuss or disclose or allow anyone else to discuss or disclose to anyone the results of the early counting of votes while the polls are open."

(b) The chief election judge shall witness and sign the affirmation."

NEW SECTION. Section 15. Withdrawal of signatures.

(1) Signatures may be withdrawn from a petition for constitutional amendment, constitutional convention, initiative, or referendum up to the time of final submission of petition sheets as provided in 13-27-301.

(2) The secretary of state shall prescribe the form to be used by an elector desiring to have his signature withdrawn from a petition.

Section 16. Section 13-27-105, MCA, is amended to read:

"13-27-105. Effective date of initiative and referendum issues. (1) Unless the petition placing an initiative issue on the ballot states otherwise, an initiative issue, other than a constitutional amendment, approved by the people is effective on October 1 following approval. ~~However,--if~~ If the issue delegates rulemaking

authority, it is effective no sooner than October 1 following approval.

(2) A constitutional amendment proposed by initiative or by the legislature and approved by the people is effective on July 1 following approval unless the amendment provides otherwise.

(3) Unless specifically provided by the legislature in an act referred by it to the people or until suspended by a petition signed by at least 15% of the qualified electors in a majority of the legislative representative districts, an act referred to the people is in effect as provided by law until it is approved or rejected at the election. An act that is rejected is repealed effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred to the people that was in effect at the time of the election and is approved by the people remains in effect. An act that was suspended by a petition and is approved by the people is effective the date the result of the canvass is filed by the secretary of state under 13-27-503. An act referred by the legislature that contains an effective date following the election becomes effective on that date if approved by the people. An act that provides no effective date and whose substantive provisions were delayed by the legislature pending approval at an election and that is approved is effective October 1

1 following the election."

2 Section 17. Section 13-27-303, MCA, is amended to
3 read:

4 "13-27-303. Verification of signatures by county
5 official -- allocating voters following reapportionment --
6 duplicate signatures. (1) The Within-2 EXCEPT AS REQUIRED BY
7 13-27-104, WITHIN 4 weeks after receiving the sheets or
8 sections of a petition, the county official receiving-the
9 sheets-or-sections-of-a-petition shall check the names of
10 all signers to verify they are registered electors of the
11 county. In addition, the official shall randomly select
12 signatures on each sheet or section and compare them with
13 the signatures of the electors as they appear in the
14 registration records of the office. If all the randomly
15 selected signatures appear to be genuine, the number of
16 signatures of registered electors on the sheet or section
17 may be certified to the secretary of state without further
18 comparison of signatures. If any of the randomly selected
19 signatures do not appear to be genuine, all signatures on
20 that sheet or section must be compared with the signatures
21 in the registration records of the office.

22 (2) For the purpose of allocating the signatures of
23 voters among the several legislative representative
24 districts of the state as required to certify a petition for
25 a ballot issue under the provisions of this chapter

1 following the filing of a districting and apportionment plan
2 under 5-1-111 and before members of the house of
3 representatives have been elected and qualified under the
4 plan, the legislative representative districts among which
5 the signatures must be allocated must be those in existence
6 when the plan was filed.

7 (3) Upon discovery of FRAUDULENT SIGNATURES OR
8 duplicate signatures of an elector on any one issue, the
9 election administrator may submit THE NAME OF THE ELECTOR OR
10 THE PETITION CIRCULATOR, OR BOTH, such-name to the county
11 attorney to be investigated under the provisions of
12 13-27-106 and 13-35-207."

13 Section 18. Section 13-27-402, MCA, is amended to
14 read:

15 "13-27-402. Committees to prepare arguments for and
16 against ballot issues. (1) The arguments advocating approval
17 or rejection of the ballot issue and rebuttal arguments
18 shall be submitted to the secretary of state by committees
19 appointed as provided in this section.

20 {a}(2) The committee--advocating--approval--of-an-act
21 referred--to--the--people--or--a--constitutional---amendment
22 proposed-by-the-legislature-or-an-act-referred-to-the-people
23 by---referendum---petition following committees shall be
24 composed of one senator known to favor the measure,
25 appointed by the president of the senate; one representative

known to favor the measure, appointed by the speaker of the house of representatives; and one individual who need not be a member of the legislature, appointed by the first two members;

(a) the committee advocating approval of an act referred to the people or of a constitutional amendment proposed by the legislature; or

(b) the committee advocating approval of an act referred to the people by referendum petition.

(3) The committee advocating rejection of a ballot issue an act referred to the people or of a constitutional amendment proposed by the legislature shall be composed of one senator appointed by the president of the senate; one representative appointed by the speaker of the house of representatives; and one individual who need not be a member of the legislature, appointed by the first two members. Whenever possible, the members shall be known to have opposed the issue.

(4) A The following shall be three-member committee advocating--approval--of-a-ballot-issue-proposed-by-any-type-of-initiative-petition-or-advocating-rejection-of-any-ballot-issue-that-is-a-legislative-act-referred-to--the--people--by-referendum-petition committees and shall be appointed by the person submitting the petition to the secretary of state under the provisions of 13-27-202;

(a) the committee advocating approval of a ballot issue proposed by any type of initiative petition; and

(b) the committee advocating rejection of any ballot issue that is a legislative act referred to the people by referendum petition.

(5) A committee advocating rejection of a ballot issue proposed by any type of initiative petition shall be composed of five members. The governor, attorney general, president of the senate, and speaker of the house of representatives shall each appoint one member, and the fifth member shall be appointed by the first four members. All members shall be known to favor rejection of the issue.

(6) No person may be required to serve on any committee under this section, and the person making an appointment must have written acceptance of appointment from the appointee."

Section 19. Section 13-27-403, MCA, is amended to read:

"13-27-403. Appointment to committee. (1) Appointments to committees advocating approval or rejection of an act referred to the people or a constitutional amendment proposed by the legislature shall be made no later than 6 months before the election at which the ballot issue will be voted on by the people. All--persons--responsible---for appointing--members--to--such-committees-shall-submit-to-the

1 secretary--of--state--the--names--and--addresses--of--three
 2 prospective--appointees--for--each--position, set forth in the
 3 order-of-preference-of-appointment, no later--than--3--weeks
 4 before-the-deadline-for-making-such-appointments.

5 (2) Appointments to committees advocating approval or
 6 rejection of a ballot measure referred to the people by
 7 referendum petition or proposed by any type of initiative
 8 petition shall be made no later than 10 30 days after the
 9 measure is certified---to---the--governor approved for
 10 circulation by the secretary of state. All persons
 11 responsible for appointing members to the committee shall
 12 submit to the secretary of state the names and addresses of
 13 two--prospective the appointees for each position, set forth
 14 in-the-order-of-preference-of-appointment, no later--than--2
 15 weeks--after--the--final--date--for--filing--the-petition-in
 16 accordance-with-13-27-301, no later than the date set by
 17 this subsection. Such submission must include the written
 18 acceptance of appointment from each appointee required by
 19 section 13-27-402(6).

20 (3) All prospective appointees to a committee pursuant
 21 to subsection (1) must be notified by the secretary of state
 22 by certified mail, with return receipt requested, at-least
 23 15--days--before--the--appointment--deadline--specified--in
 24 subsection--(1)--A-prospective--appointee--may--assent--or
 25 decline-to-serve--on--the--committee--by--so--informing--the

1 secretary--of--state,---back-of-response-to-the-secretary-of
 2 state-for-any-reason-10-days--after--mailing--of--notice--is
 3 considered-to-be-refusal-of-appointment no later than 5 days
 4 after the deadline set for appointment of committee members,
 5 of the deadlines for submission of the committee's
 6 arguments.

7 (4) All prospective appointees to a committee pursuant
 8 to subsection (2) must be notified by the secretary of state
 9 by certified mail, with return receipt requested, at-least-8
 10 days-before-the-appointment-deadline-specified-in-subsection
 11 (2)--A-prospective--appointee--may--assent--or--decline--to--serve
 12 on--the--committee--by--so--informing--the--secretary-of-state--
 13 back-of-response-to-the-secretary-of-state-for-any-reason--5
 14 days--after--mailing--of--notice--is--considered--to--be--refusal--of
 15 appointment no later than 35 days after the petition has
 16 been approved for circulation, of the deadlines for
 17 submission of the committee's arguments.

18 (5) The-secretary-of-state-shall--determine--which--of
 19 the---prospective--appointees--assenting--to--serve--on--the
 20 committee-shall-be-appointed,--according--to--the--order--of
 21 preference--specified-by-the-appointing-authority,--and--shall
 22 so-notify-all--prospective--appointees--by--the--appointment
 23 deadline--specified--in-subsection-(1)--or--(2),--respectively.
 24 Committees appointed under subsections (2)(b), (4), and (5)
 25 of 13-27-402 must be vacated and have no further obligation

1 if the ballot measure for which they were appointed fails to
2 receive sufficient signatures to place it on the ballot.
3 The secretary of state shall notify the committee members of
4 the failure of a ballot measure to receive sufficient
5 signatures no later than 3 days after the filing deadline
6 set in 13-27-104."

7 NEW SECTION. Section 20. Repealer. Section 13-13-242,
8 MCA, is repealed.

9 NEW SECTION. Section 21. Extension of authority. Any
10 existing authority of the secretary of state to make rules
11 on the subject of the provisions of this act is extended to
12 the provisions of this act.

13 NEW SECTION. Section 22. Codification instructions.

14 (1) Section 5 4 is intended to be codified as an integral
15 part of Title 13, chapter 15, part 1, and the provisions of
16 Title 13, chapter 15, part 1, apply to section 5 4.

17 (2) Section ~~16~~ 15 is intended to be codified as an
18 integral part of Title 13, chapter 27, part 3, and the
19 provisions of Title 13, chapter 27, part 3, apply to section
20 ~~16~~ 15.

21 NEW SECTION. Section 23. Effective date. This act is
22 effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

HOUSE

March 12

19 87

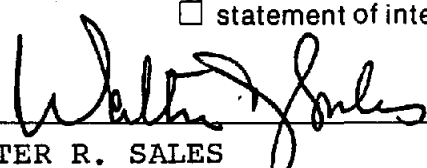
Mr. Speaker: We, the committee on STATE ADMINISTRATION

report SB 260

☐ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached


WALTER R. SALES

Chairman

GENERALLY REVISE ELECTION LAWS:

1. Page 5, line 18.

Following: "."

Insert: "(1)"

2. Page 5, line 21.

Strike: "(1)"

Insert: "(a)"

3. Page 5, line 25.

Strike: "(2)"

Insert: "(b)"


4. Page 5.

Following: line 25

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

7071a/C:JEANNE\WP:jj

REP. FRITZ WILL CARRY THE BILL


third reading copy (blue)
color